

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

June 13, 2013

- I. **CALL TO ORDER** - The meeting was called to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Mike Owens, Chair (departed at 3:43 p.m.); Eunice Beatty, Will Berkley, Carla Blanton, Mike Cravens, Karen Mundy, Frank Penn, Carolyn Plumlee and William Wilson. Lynn Roche-Phillips and Patrick Brewer were absent.

Planning Staff Present – Bill Sallee; Tom Martin; Barbara Rackers; Cheryl Gallt; Dave Jarman and Denice Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Lieutenant Greg Lengal, Division of Fire and Emergency Services; Jeff Neal and Casey Kaucher, Division of Traffic Engineering; Tim Queary, Department of Environmental Quality and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** –The Chair reminded the Commission members that the minutes of the May 9, 2013, meeting had been previously distributed; and if there were no changes, those minutes were ready to be considered at that time.

Action - A motion was made by Mr. Cravens, seconded by Ms. Plumlee and carried 9-0 (Brewer and Roche-Phillips absent) to approve the minutes of the May 9, 2013, meeting.

- III. **POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal were considered at this time.

- a. ZDP 2012-76: DEERFIELD SHOPPING CENTER (6/13/13)* - located at 1949 Nicholasville Road.
(Vision Engineering)

Note: The Planning Commission postponed this plan at their September 27, 2012; January 17, 2013; February 14, 2013; March 14, 2013; April 11, 2013 and May 9, 2013 meetings. The Urban County Council approved the zone change request at their November 27, 2012, meeting.

The Subdivision Committee Recommended: **Postponement**. There are issues with the screening and buffering proposed adjacent to a residential subdivision.

Should this plan be approved, the following conditions should be considered:

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Denote current floodplain information on plan.
8. Denote record plan name.
9. Clarify site statistics (floor area).
10. Verify required parking for restaurant (square footage/seating ratios).
11. Addition of Nicholasville Road street cross-section and Collins Lane access easement cross-section.
12. Denote proposed and existing storm sewer locations to the approval of the Division of Water Quality.
13. Resolve utility line and proposed building conflicts.
14. Denote proposed storm water detention location to the approval of the Division of Water Quality.
15. Discuss tree protection, landscaping and buffering perpendicular to Nicholasville Road.
16. Discuss building height adjacent to residential uses.
17. Discuss disposition of existing improvements in Nicholasville Road right-of-way.
18. Discuss timing of revisions to the current FEMA floodplain.

Representation – Nick Nicholson, attorney, was present representing the applicant, and requested postponement of ZDP 2012-76: DEERFIELD SHOPPING CENTER to the July 11, 2013, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Penn, seconded by Ms. Mundy and carried 9-0 (Brewer and Roche-Phillips absent) to postpone ZDP 2012-76: DEERFIELD SHOPPING CENTER to the July 11, 2013, Planning Commission meeting.

* - Denotes date by which Commission must either approve or disapprove request.

- b. DP 2013-6: SAMS PROPERTY (AMD) (6/13/13)* - located at 2640 Spurr Road.
(Council District 2)

(Strand Associates)

Note: The Planning Commission postponed this plan at their February 14, 2013; March 14, 2013, April 11, 2013 and May 9, 2013, meetings. The purpose of this amendment is to add two industrial buildings.

The Subdivision Committee Recommended: Postponement. There were questions regarding the proposed uses, sanitary sewer service and the need for tree protection areas and improvements to Greendale Road and Spurr Road.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of fire hydrant, fire department connections and fire service features locations.
10. Division of Waste Management's approval of refuse collection.
11. Kentucky Transportation Cabinet's approval of the access to Greendale Road.
12. Denote tree protection areas.
13. Addition of owner/developer information.
14. Revise contour information (2' contours).
15. Denote construction access location.
16. Denote building heights.
17. Addition of proposed easements.
18. Denote septic drain field location for Lot 1 on plan.
19. Discuss reciprocal parking and access for new buildings.
20. Discuss proposed access nearest to railroad crossing.
21. Discuss parking and pavement conflict with existing tree areas along railroad lines.
22. Discuss possible improvements to Greendale Road and Spurr Road.
23. Discuss proposed uses and amount of pavement on Lots 2 and 3.
24. Discuss development of Lots 2 and 3 relative to timing of sanitary sewer service.

Representation – Sara Tuttle, Strand Associates, was present representing the applicant, and requested postponement of DP 2013-6: SAMS PROPERTY (AMD) to the June 27, 2013, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Beatty, seconded by Mr. Wilson and carried 9-0 (Brewer and Roche-Phillips absent) to postpone DP 2013-6: SAMS PROPERTY (AMD) to the June 27, 2013, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, June 6, 2013, at 8:30 a.m. The meeting was attended by Commission members: Mike Owens, Carolyn Plumlee, Frank Penn, Eunice Beatty and Karen Mundy. Committee members in attendance were: Hillard Newman, Division of Engineering and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Denice Bullock, Dave Jarman and Cheryl Gallt, as well as Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.
2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.

- A. **CONSENT AGENDA - NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

- Criteria:**
- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
 - (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
 - (3) no discussion of the item is desired by the Commission; and
 - (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
 - (5) the matter does not involve a waiver of the Land Subdivision Regulations.

* - Denotes date by which Commission must either approve or disapprove request.

- Requests can be made to remove items from the Consent Agenda:**
- (1) due to prior postponements and withdrawals,
 - (2) from the Planning Commission,
 - (3) from the audience, and
 - (4) from Petitioners and their representatives.

At this time, the Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the staff had recommended reapproval of one item and the Subdivision Committee had recommended conditional approval of the remaining items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. **PLAN 2012-14P: HAMBURG PLACE COMMUNITY, PHASE II (AMD)** (9/3/13)* - located at 2350 Winchester Road (a portion of). (Council District 6) **(Vision Engineering)**

Note: The purpose of this amendment was to add four residential lots. The Planning Commission originally approved this plan on April 12, 2012, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Indicate elevation of regulatory floodplain.
9. Correct note #5.

Note: The Commission's approval has since expired. The applicant now requests a reapproval of this plan.

The Staff Recommends: **Reapproval**, subject to the original conditions.

2. **PLAN 2013-53F: 300 WEST VINE, LLC PROPERTY** (7/8/13)* - located at 307-315, 317-331 and 343 South Broadway. (Council District 3) **(Strand & Associates)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
6. Correct vicinity map (northern property).
7. Addition of building lines (10') as required by Article 8-18(h).
8. Addition of survey monument information.
9. Correct Engineer's certification to the approval of the Division of Engineering.
10. Resolve access and pedestrian easements from Lot 1 to serve Lot 2.

3. **PLAN 2013-56F: THE FAIRWAYS AT ANDOVER** (7/8/13)* - located at 3435 McFarland Lane. (Council District 6) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
7. Denote the homeowner's association maintenance of Lot 93.

4. **DP 2013-50: P.B. DEVEREUX SUBDIVISION (LYNN GROVE ADDITION)** (7/8/13)* - located at 99-103 and 109-119 Burley Avenue. (Council District 3) **(Barrett Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.

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2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 7. Division of Waste Management's approval of refuse collection locations.
 8. Denote private open space for each unit per R-1T requirements.
 9. Resolve driveway width proposed to Burley Avenue.
5. DP 2013-54: MAN O' WAR DEVELOPMENT, UNIT 2A, LOTS A-20 & A-21 (7/8/13)* - located at 1908 & 1916 Bryant Road. (Council District 2) **(Vision Engineering)**

Note: The purpose of this amendment is to develop two lots with a 3-story retail building and restaurant.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Department of Environmentally Quality's approval of environmentally sensitive areas.
 7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 8. Division of Waste Management's approval of refuse collection locations.
 9. Correct note #8.
 10. Clarify retail floor area identified in site statistics.
 11. Provided a minor subdivision plat is filed to resolve the access easement location and the property line through the building, prior to plan certification.
 12. Resolve location of storm water detention area and water quality improvements.
6. DP 2013-56: BLACKFORD PROPERTY, PHASE 1, UNIT 5 (AMD) (8/7/13)* - located at 3105 Blackford Parkway. (Council District 12) **(EA Partners)**

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to create 5 additional single family lots.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmentally Quality's approval of environmentally sensitive areas.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Delete note #16.
9. Complete cross-section information (for new street).
10. Resolve the minimum lot frontage and square footage in the development standards.

Mr. Sallee said that the staff had previously distributed a memorandum to the Commission for DP 2013-56: BLACKFORD PROPERTY, PHASE 1, UNIT 5 (AMD), adding that the Commission must make a finding that this subdivision complies with the EAMP Design standards. He then said that the staff had also received notice of the required posting of a sign and an affidavit for DP 2013-56: BLACKFORD PROPERTY, PHASE 1, UNIT 5 (AMD), adding that the documentation received for this request appeared to be in order.

In conclusion, Mr. Sallee said that the items identified on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration by a member of the Commission or the audience to permit further discussion.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. There was no response.

Action - A motion was made by Ms. Plumlee, seconded by Mr. Wilson and carried 9-0 (Brewer and Roche-Phillips absent) to approve the items listed on the Consent Agenda.

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- B. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum OR 3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Commission discusses and/or votes on the plan.

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the meeting. The Chair will announce his/her decision at the outset of the hearing.

1. FINAL SUBDIVISION PLANS –

- a. PLAN 2013-54F: MIDDLEBURG FARM (7/8/13)* - located at Russell Cave Road and Faulkner Avenue.
(Council District 1) **(EA Partners)**

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this plat is to subdivide one 131.2-acre lot into two 65.6-acre lots.

The Subdivision Committee Recommended: **Postponement.** There are questions about compliance with Article 3-7 of the Zoning Ordinance.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
7. Correct cross-section cut through Russell Cave Road ("A-A").
8. Verify configuration of floodplain on east side of Tract 2.
9. Denote regulatory flood elevation or floodplain.
10. Denote 300' setback required in the A-R zone.
11. Denote compliance with Article 3-7 of the Zoning Ordinance, including required report.

Staff Presentation – Directing the Commission's attention to the rendering, Mr. Jarman presented the final record plat for Middleburg Farm, and oriented them to the location of the subject property. He noted that the property is at Russell Cave Road and Faulkner Avenue. He said that the staff had received notice of the required posting of a sign and an affidavit for this property, adding that the documentation received for this request appeared to be in order. He then said that the purpose of this plat is to subdivide an agricultural lot into two 65.6-acre lots, adding that there can be no further development of this property until the Planning Commission grants a zone change, as well as approving a preliminary and final development plan for the properties.

Mr. Jarman said that the Subdivision Committee reviewed the applicant's request and recommended postponement due to questions regarding compliance with Article 3-7 of the Zoning Ordinance regarding cemetery protection and access. He directed the Commission's attention to the rendering and said that since the June 6th Subdivision Committee meeting, the applicant had submitted a revised plan to the staff that does show the cemetery location, as well as the protection measures and access. As a result of that revision, the staff can now recommend approval of this plan, subject to the following revised recommendation to the Planning Commission.

The Staff Recommends: **Approval,** subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.

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4. Addressing Office's approval of street names and addresses.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
7. Correct label of cross-section cut through for Russell Cave Road ("C-C").
8. Verify configuration of floodplain on east side of Tract 2.
- ~~9. Denote regulatory flood elevation or floodplain.~~
- ~~10. Denote 300' setback required in the A-R zone.~~
- ~~9.~~ 11. Denote compliance with Article 3-7 of the Zoning Ordinance, including by denoting that required report shall be submitted at the time of a Final Development Plan.
10. Denote location of 10' access easement to cemetery per Article 3-7 of the Zoning Ordinance.

Mr. Jarman briefly explained that conditions #1 through #6 are standard sign-off requirements from the different divisions of the LFUCG, and the remaining conditions are "clean-up" items.

Planning Commission Questions – Mr. Penn asked where the access easement would be located for the cemetery. Mr. Jarman said that the access easement would be denoted on this plat prior to the plan being certified. Mr. Penn then asked where the access points are located for each of these lots. Mr. Jarman said that there is an existing access along Russell Cave Road that leads back toward Tract 2. This access would be split into two accesses for each of the two tracts. Mr. Penn asked if this access would be a shared access. Mr. Jarman replied affirmatively.

Representation – Rory Kahly, EA Partners, was present, representing the applicant. He said that there is another access off Faulkner Avenue, allowing each of the lots to have it own access point. He clarified that condition #7 should read "A-A" for Russell Cave Road and not "C-C". He said that "C-C" is actually for the sidewalk, and sidewalks are not planned for both sides of Russell Cave Road. He said that with those changes they are in agreement with the staff's revised recommendations and requested approval.

Planning Commission Questions – Chairman Owens asked for more information on the 10-foot access easement to the cemetery. Mr. Kahly said that the cemetery is in the middle of the field, and it would be up to the property owner as to where the access easement would be placed.

Mr. Penn said that Tract 1 has access off Faulkner Avenue, and Tract 2 has access off Russell Cave Road. He asked if the access off Russell Cave Road is a shared access. Mr. Kahly said that he does not know if the property owner wants to keep the access on Russell Cave Road to provide the shared access for both lots. Mr. Penn asked if the access would be decided on the development plan. Mr. Kahly said that access to the cemetery will be decided on the final record plat.

The Chair said that before this plat is recorded, the questions regarding the access to the cemetery would be resolved, which Mr. Kahly confirmed.

Ms. Beatty said that, since the Subdivision Committee meeting, she could not see where the issue of the cemetery had significantly changed and asked for clarification as to what happened with this request for staff to change a postponement recommendation to an approval recommendation. Mr. Jarman said that the staff had met with the applicant, and they had agreed to denote the compliance with Article 3-7 at the final development plan. He then said that, with their revised submittal, the applicant had addressed conditions #9 and #10, which led the staff to recommend approval of this request.

Ms. Beatty confirmed that the access easement to the cemetery would be designated at the final development plan stage. Mr. Kahly replied affirmatively, and said that the purpose of this request is to subdivide the land into two lots. He then said that, if the property owner were to submit a development plan for these lots, a report would be submitted that addressed the required landscaping, fencing and so forth for the family cemetery.

Mr. Penn asked if there is a floodplain along Russell Cave Road. Mr. Kahly replied negatively, and said that the rendering is showing alluvial soils, and to the south is where the Zone "A" FEMA floodplain is being shown. Mr. Penn confirmed that there is not FEMA Floodplain along Russell Cave Road. Mr. Kahly replied that there is no FEMA Floodplain.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 9-0 (Brewer and Roche-Phillips absent) to approve PLAN 2013-54F: MIDDLEBURG FARM, subject to the revised conditions, as presented by the staff.

Discussion of motion - Mr. Kahly asked if the motion included changing condition #7 from "C-C" to read "A-A".

Amended Motion - A motion was made by Mr. Wilsons, and seconded by Ms. Mundy to change condition #7 to read "Correct label of cross-section cut through for Russell Cave Road ("A-A").

Discussion of Motion – Ms. Beatty asked if the staff was in agreement with changing condition #7. Mr. Jarman replied affirmatively.

The motion carried 9-0 (Brewer and Roche-Phillips absent).

2. DEVELOPMENT PLANS

Note: Mr. Wilson said that he serves as Chairman of the Board for Palliative Health Care, which is a subsidiary of Hospice and he would recuse himself from this portion of the meeting.

- a. DP 2013-36: KINGSTON HALL, UNIT 2 (EAST BRIDGEFORD LAND & DEVELOPMENT CO) (AMD)
(7/30/13)* - located at 2356 Newtown Pike. (Council District 12) **(Vision Engineering)**

Note: The Planning Commission postponed this plan at their May 9, 2013 and May 23, 2013, meetings. This plan requires the posting of a sign and an affidavit of such.

The Subdivision Committee Recommended: **Postponement.** There were questions regarding the proposed and future access and the ability to provide sanitary sewer service to the site.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection.
9. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
10. Correct note #5.
11. Revise, delete, correct notes #9-#13 to the approval of the Urban Forester.
12. Denote building heights in feet.
13. Dimension medical clinic building.
14. Delete note #15.
15. Addition of Newtown Pike cross-section.
16. Denote conditional zoning restrictions.
17. Denote compliance with Art. 23A-2(f) of the Zoning Ordinance (for 50' landscape buffer).
18. Clarify building square footage and parking floor area proposed.
19. Revise plan to reflect future access per the approved plans.
20. Document ability to drain storm water to off-site detention basin.
21. Discuss compliance with note #12 on preliminary plan.
22. Discuss the temporary pump station and the ability to sewer the property.
23. Discuss development standards to be included on the development plan per note #10 on the preliminary development plan.
24. Discuss access to property to the south.
25. Discuss whether access to Newtown Pike will be temporary or permanent.
26. Discuss lack of parking near proposed pharmacy, and whether the pharmacy is an allowable use in a detached building.
27. Discuss location of "pedestrian accessway" required by Art. 23A-10(j)(4).

Staff Presentation – Directing the Commission's attention to the rendering, Mr. Martin presented a rendering of an amended Final Development Plan for Kingston Hall, Unit 2 (East Bridgeford Land and Development Company). He oriented the Commission to the surrounding area and street system, and said that the subject property is located at 2356 Newtown Pike, which is north of the interstate, Providence Place Parkway and Stanton Way. He then said that a section of Providence Place Parkway has been built and dedicated, and is planned to intersect with Mary Faye Place. He noted that Mary Faye Place has been dedicated, but not yet built, and the applicant is showing that future connection on their development plan.

Mr. Martin explained that the subject property is approximately 16 acres in size, and the applicant is proposing to utilize the existing access on Newtown Pike to construct a 45,500 square-foot medical clinic, a

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5,000 square foot pharmacy building and provide 267 associated parking spaces. He noted that, as the Planning Commission is aware, a text amendment has been filed with the staff to amend the ED zone; and should the Commission approve the text amendment, it would allow a hospice at this location. At that time, the staff would anticipate this development plan to be amended, particularly the parking.

Mr. Martin noted that the applicant has requested a waiver to Article 6-8(b) of the Land Subdivision Regulations to allow the termination of Mary Faye Place to occur in their proposed parking lot, utilizing an apron to delineate the end of the public right-of-way. He also noted that since this request is located in the Expansion Area, an EAMP Compliance Report is needed, per Article 23B-5(c) of the Zoning Ordinance.

Mr. Martin said that the staff did receive a revised submission for this development on May 21st, which addressed many of the conditions identified by the Subdivision Committee. The staff had also received a 2nd revised plan, but felt that the 2nd revision did not make it necessary to further revise the conditions, the EAMP Compliance Report or the waiver. He directed the Commission's attention to the staff handout, and briefly explained that conditions #1 through #10 are standard sign-off requirements from the different divisions of the LFUCG, and the remaining conditions are "clean-up" items. He then said that the staff is recommending approval of this request, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection.
9. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
- ~~10. Correct note #5.~~
- ~~10. 11. Revise, delete, correct notes #9-#13 to the approval of the Urban Forester.~~
- ~~12. Denote building heights in feet.~~
- ~~13. Dimension medical clinic building.~~
- ~~14. Delete note #15.~~
- ~~11. 15. Addition of Kentucky Transportation Cabinet approval of any Newtown Pike cross-section access location.~~
- ~~16. Denote conditional zoning restrictions.~~
- ~~17. Denote compliance with Art. 23A-2(f) of the Zoning Ordinance (for 50' landscape buffer).~~
- ~~12. 18. Clarify building square footage and parking floor area proposed.~~
- ~~19. Revise plan to reflect future access per the approved plans.~~
- ~~13. 20. Document ability to drain storm water to off-site detention basin.~~
- ~~14. 21. Discuss Denote compliance with note #12 #11 on preliminary plan.~~
- ~~22. Discuss the temporary pump station and the ability to sewer the property.~~
- ~~15. 23. Discuss development standards Addition of cul-de-sac to be included on the development plan per note #10 on the preliminary development plan.~~
- ~~24. Discuss access to property to the south.~~
- ~~16. 25. Discuss whether access to Newtown Pike will be temporary or permanent.~~
- ~~26. Discuss lack of parking near proposed pharmacy, and whether the pharmacy is an allowable use in a detached building.~~
- ~~27. Discuss location of "pedestrian accessway" required by Art. 23A-10(j)(4).~~

Mr. Martin further explained that the applicant will need to revise, delete and correct notes #9 through #13, as well as clarify the building square footage and parking floor area proposed due to a slight number discrepancy in the site statistics. He said that the applicant will also need to document their ability to drain the storm water to the off-site detention basin, which is located on the adjacent property. He pointed out that there is an existing water quality feature on this property, but it is not proposed to be a volume feature or a detention basin. Mr. Martin said that the applicant is proposing to utilize the existing access on Newtown Pike, and this access would need to be approved by the Kentucky Transportation Cabinet. It has been suggested that this access point should have a right-turn lane into the subject site; but at this time, it will not be a full right-turn lane, but it will be flared to help direct the traffic flow into the property.

Waiver Report - Mr. Martin directed the Commission's attention the staff report on the waiver request, which has been distributed. As for condition #15, he said that the "addition of cul-de-sac to be included on the development plan" is related to the waiver request to Article 6-8(b) of the Land Subdivision Regulations. The applicant has requested to not terminate the extension of Mary Faye Place as a full cul-de-sac. He said that the extension of Mary Faye Place terminates at the property line, and the applicant is suggesting a transition of the street into private property. He then said that the staff had reviewed their request, and is recommending disapproval. The staff believes it is too early in the process to make such a determination, plus there is a concern with the street geometrics. He said that the 2nd revision has greatly improved since

the original proposal was submitted, and the applicant has attempted to improve the street geometrics leading to Mary Faye Place; but at this time, the staff believes more improvements are needed. Mr. Martin directed the Commission's attention to the staff exhibit on the overhead projector, and explained that there are several types of cul-de-sac designs. The staff believes that the applicant could construct a partial cul-de-sac on their property, at which time, should the adjacent property develops, the rest of the cul-de-sac could be constructed. He said that the cost of the cul-de-sac would then be shared between the two property owners in order to meet the Land Subdivision Regulations.

Mr. Martin said that the staff is recommending disapproval of the requested waiver, for the following reasons:

1. Denial of the waiver would not constitute a hardship to the applicant, as there is adequate space on the subject site to construct a cul-de-sac that conforms to the requirements of the Land Subdivision Regulations.
2. Construction of adequate public street infrastructure is necessary to address public safety necessary for the movement of the large vehicles in this area.

EAMP Compliance Report - Mr. Martin directed the Commission's attention to the EAMP Compliance Report. He said that the staff has reviewed the proposed development plan, and the applicant is proposing certain community development and style amenities. He then said that the applicant does show the required setback and an open space area, as well as greenspace area; and the proposed building is oriented toward the perimeter of the property to isolate this site from any other development.

Mr. Martin said that there are two infrastructure elements that will impact this entire area. The first is the sanitary sewer regional pump station that will be built by the LFUCG through the exactions program. He said that, in the past, it was recommended that a pump station be located on the adjacent property, but it has been determined that that is not the best place to construct a pump station. It is the staff's understanding that the location of the regional pump station has not yet been determined, but it will be further downstream in the watershed. He said that the applicant does plan to build a temporary pump station to serve their property, should the regional pump station not be available. Mr. Martin said that this practice has been consistent on other properties. He noted that, on the adjacent property, they are utilizing a sewer line that connects to the pump station near the Arby's restaurant on Stanton Way; and once the regional pump station has been constructed, the smaller pump stations in the area can be removed.

Mr. Martin said that the second infrastructure improvement is the Providence Place Parkway that is located to the south of the subject property. This connection has been identified on the EAMP; it is an exactable feature and is required to be built. He noted that Mary Faye Place is part of the local street system for this area, and it is an important element of the EAMP. He said that the overall concept for this area is that Providence Place Parkway will support the local street system in this area, eventually connecting Russell Cave Road to Newtown Pike.

Mr. Martin said that there is a concern with whether or not the access to Newtown Pike should be temporary or permanent. The staff believes this issue is worthy of more discussion and has spoken with the Division of Traffic Engineering about it. He explained that this access was originally identified to connect to the rear property, and it would be considered as a temporary access until such time that the surrounding land develops and a connection could be made with the local street system and Providence Place Parkway. Mr. Martin said that the applicant had originally proposed to have their access closer to the Poole property; but in reviewing the distance between Dr. Pooles' entrance and the subject site entrance, the spacing was too close. He noted that the distance between Providence Place Parkway and Dr. Pooles' entrance is 500 feet, which meets the minimum spacing standards for Newtown Pike. By utilizing the existing access on the subject site, the distance between the Pooles' entrance and the entrance for the subject site would be 360 feet. He noted that this distance does not meet the minimum spacing standards for Newtown Pike, but it does give a level of comfort for the proposed hospice use. He said that if this site were being proposed for a larger medical facility or a more intense use, the staff would not be comfortable with using the existing access as the entrance into this site. He said that staff believes this is a valid discussion item, and there should be a timing mechanism associated with the access point.

Mr. Martin said that the staff had received notice of the required posting of a sign and an affidavit for this property, adding that the documentation received for this request appeared to be in order. He then said that the staff is recommending approval of this development plan request, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection.

9. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
10. Revise, delete, correct notes #9-#13 to the approval of the Urban Forester.
11. Kentucky Transportation Cabinet approval of any Newtown Pike access location.
12. Clarify building square footage and parking floor area proposed.
13. Document ability to drain storm water to off-site detention basin.
14. Denote compliance with note #11 on preliminary plan.
15. Addition of cul-de-sac to be included on the development plan
16. Discuss whether access to Newtown Pike will be temporary or permanent.

Mr. Martin then said that, at this time, the staff is recommending disapproval of the requested waiver, for the following reasons:

1. Denial of the waiver would not constitute a hardship to the applicant, as there is adequate space on the subject site to construct a cul-de-sac that conforms to the requirements of the Land Subdivision Regulations.
2. Construction of adequate public street infrastructure is necessary to address public safety necessary for the movement of the large vehicles in this area.

Mr. Martin added that the Final Development Plan for Kingston Hall, Unit 2, Phase 1 is in substantial compliance with the Future Land Use, Community Design Elements and the Infrastructure Element of the Expansion Area Master Plan for the following reasons:

1. The uses and proposed development meet the definition of the Economic Development land use category in the EAMP and the uses allowed in the ED zone.
2. Many of the applicable principles of the EAMP, including the use of the natural topography and buffering, have been incorporated into the design of this ED development. The development plan is therefore in compliance with the Community Design element.
3. The proposed local street connection will serve the subject property and will provide a link in the local street network.
4. Although the planned regional sanitary sewer pump station has not been constructed, the applicant is constructing a temporary pump station for the sanitary sewer service consistent with previous plans in the area that have been agreed upon by the applicant and the LFUCG Division of Water Quality.

Planning Commission Questions – Mr. Penn said that the access into the subject site was to serve a 10-acre tract and asked if the 10-acre tract still exists. Mr. Martin said that the Commission had approved a plat for the 10-acre tract, adding that the subject site sits on a 16-acre tract. Mr. Penn then asked if the subject site is behind the 10-acre tract. Mr. Martin said that a 10-acre tract was created and approved for this property. Mr. Penn asked how the 10-acre tract will be dealt with if access is being created for an intensive use on the 16-acre tract. Mr. Martin said that the 10-acre tract was meant to serve a single family home. Mr. Penn said that that is exactly right, and the access on Newtown Pike was meant to be for the 10-acre tracts; any other connection would be through the adjacent property near the pump station. He then said that the Commission is being asked to change that recommendation and not build the road until it is needed. He added that this was originally proposed to be a 10-acre tract for a single family home, and now the proposal is for a 16-acre tract with a more intense use with 265 parking spaces. Mr. Martin replied affirmatively, and said that there is a pending text amendment that would allow this type of use in the ED area; and if approved, this development plan will be amended. Mr. Penn confirmed that the text amendment would allow this type of use. Mr. Martin replied affirmatively, and said that the parking requirement would be decreased. Mr. Penn said that he understands, but his concern is the 10-acre tract that has been platted and still exists. Mr. Martin said that the Commission has approved the 10-acre tract, but it has not been recorded. Mr. Penn wanted to make it clear that this is not the original proposal that was planned for this area. Mr. Martin noted that Mr. Penn was correct, and said that from the beginning it was anticipated that that access would not remain once there was full development of these properties. He then said that it was also anticipated that there would be more intense development on these properties. Mr. Penn commented that the more intense development would be using Providence Place Parkway. Mr. Martin said that the intent of the local streets, such as Mary Faye Place, would be to bring the traffic to Providence Place Parkway.

Ms. Plumlee said that the subject property is at the very edge of Urban Service Boundary, which Mr. Martin confirmed. Ms. Plumlee then asked what is immediately to the north of the subject site. Mr. Martin said that, adjacent to the subject property is Eaton Farm, and it is being used as an agricultural use. He noted that Eaton Farm will continue to be used as an agricultural use. He added that beyond the Eaton Farm is Fasig-Tipton. He then said that there is a required buffer next to the Urban Service Boundary, and the applicant is providing that buffer. He said that there are no proposals for the adjacent properties other than agricultural uses.

Ms. Plumlee asked for a brief explanation about the detention basin. Mr. Martin said that the applicant would need to document their ability to utilize the off-site detention basin on the adjacent property. He then

said that that detention basin is controlled by a separate entity. Ms. Plumlee confirmed that the detention basin is on someone else's property and not the applicant's property. Mr. Martin replied affirmatively.

The Chair confirmed that the staff is recommending disapproval of the requested waiver due to the way the cul-de-sac is being proposed, and asked if the staff prefers that the applicant amend the development plan to show the proposed cul-de-sac. Mr. Martin said that one of the conditions for approval would be for the applicant to show a proposed cul-de-sac, even if it is a partial design that could be built in conjunction with the adjacent property when it develops.

The Chair said that this property was originally platted in an "L" shape that ran along the rear detention basin. Mr. Martin said that that was correct. The Chair said that there is open space east of the subject site and asked if there is a reason that this area is not being utilized. Mr. Martin said that the regional pump station was planned to sit on two acres of the adjacent property; however, the Division of Water Quality does not believe that that location is an appropriate area for the pump station, and it is now being shown in its original location on the EAMP.

The Chair confirmed that the Urban Service Boundary is to the north and east of the property. He then said that there seems to be underutilized land in this area. Mr. Martin said that the applicant can speak to whether or not they would be acquiring that land for the development of the hospice.

The Chair asked for clarification with Providence Place Parkway connecting to Russell Cave Road. Mr. Martin illustrated on the development plan rendering how Providence Place Parkway will eventually connect Newtown Pike and Russell Cave Road.

Ms. Beatty said that there has been a great deal of planning to determine what this area would look like, and asked if there is a time line for when the connection would be made from Newtown Pike over to Russell Cave Road, or the connection from Providence Place Parkway through Mary Faye Place to the subject site. She then said that it has been noted that the applicant would be placing a temporary pump station on their site because the previous location for the regional pump station is not the best location. She asked if there is a time line as to when a new location would be determined to construct the pump station. Ms. Beatty said that she understands plans do change, and asked if these changes for the overall development will fit together. Mr. Martin said that the overall design for Providence Place Parkway, with the exception of a slight shift, has not changed. He then said that Providence Place Parkway is designed to connect Newtown Pike and Russell Cave Road, and would be built as needed, as these properties are developed. This is normal practice. He further explained that this is how Polo Club Boulevard and Hays Boulevard were constructed in the Expansion Area. Mr. Martin said that the location, the finances and the construction of these systems are being reviewed aggressively. He noted that it is on a quicker time table; but the staff can not speak as to when that would happen, and it may be a few years down the road before it's built. He then said that the different priorities are reviewed and addressed in order to meet the sewer and water quality requirements that the city is facing with the EPA Consent Decree.

Mr. Penn asked if there will be exaction credits given for the temporary pump station. Mr. Martin replied negatively, and said that credits are only given when something has been identified as being required for the EAMP. Mr. Penn then asked if the applicant would still pay exaction fees toward the final pump station. Mr. Martin replied affirmatively.

Mr. Berkley asked for further clarification on the cul-de-sac design, and asked why the staff would suggest building a half cul-de-sac. Mr. Martin said that the staff is not recommending that the applicant construct the cul-de-sac, but they do need to show the cul-de-sac on the development plan. This is a fair way to obtain the public infrastructure for this area since it will serve both pieces of property. He added that a cul-de-sac is a requirement of the Land Subdivision Regulations, which is why the applicant is requesting the waiver. The staff is recommending disapproval of their request because it is premature at this point in time.

The Chair asked how far Providence Place Parkway is built. Mr. Martin explained that Providence Place Parkway has been constructed past the lot line and heads toward Russell Cave Road.

Ms. Beatty asked what the staff's recommendation for condition #16 is. Mr. Martin said that, since this proposal is for a hospice facility, the staff is not concerned with the access being temporary or permanent, unless the Commission approves a more intense use on this property. He then said that the staff is aware of the concern with the access being granted, but other accesses along Newtown Pike have been granted in the past. He added that there is an existing mental health facility on Newtown Pike that was granted access; and that access will be removed, at which time permanent access has been achieved on Coldstream Park.

Ms. Mundy asked if there is a time line as to when Mary Faye Place would be constructed between Providence Place Parkway and the proposed development. Mr. Martin said that the connection would be made when the Poole property develops. He then said that the staff does not have control over when a

property is developed, adding that that decision is up to the property owners as to when they want to develop their land.

Applicant's Representation – Richard Murphy, attorney, was present representing Hospice of the Bluegrass. He said that one of the joys of working in land use law is that he is able to work with a wonderful organization and people, who have a very important mission for this community. He then said that Hospice of the Bluegrass provides care to people who have a terminal illness or conditions, as well as provide assistance to their families. He indicated that he has had experience with loved ones who have used this type of facility; and the staff, while attending to their loved ones, had provided the family comfort and stability. Mr. Murphy clarified that in the past he has represented Dennis Anderson, who owns some of properties in this area; but for today's meeting, he is present on behalf of Hospice of the Bluegrass. He said that his clients do have a contract to purchase this land from Mr. Anderson, who will be making a partial donation to the center. He noted that there are several people who are present at today's meeting on behalf of Hospice of the Bluegrass including Gretchen Brown, Chief Executive Officer; Woodford Webb, Chairman of the Board; as well as Mark Nabits, Eric Frankel, Dee Dee Burn and Susan Weir. He then noted that Matt Carter with Vision Engineering and S. Charles Hite, AICP Planner, were also present on his client's behalf.

Mr. Murphy noted that he had entered several documents into the record that are required by the Ordinance. He said that the Ordinance requires notices to be sent out to the surrounding area, as well as a sign posted on the property of the pending request. He then said that, due to this request being postponed twice, they did update the required information on the sign and submitted three affidavits, as well as the associated photographs to the staff. He then said that they had discovered, on an older development plan, that notice letters were also required to be sent to Greg Goodman; Jack Burch; Mount Brilliant Farm, on behalf of the North Fayette Neighborhood Group; and Harry Scott, Jr., both of whom live on Russell Cave Road, and all of which received a notice letter. He had spoken with these residents and they had indicated that they were not in opposition to this request. Mr. Murphy said that the Ordinance also requires the Administrators and Commissioners of the Lexington-Fayette Urban County to be notified of a pending development in the Expansion Area; and they did submit a copy of the proposed development plan, as well as the required Infrastructure and Compliance Statements to these people, none of whom expressed any objection. Mr. Murphy added that they have also submitted a written agreement, which reaffirms the prior agreement that was made five years earlier with the adjacent property (Eaton Farm) and Mr. Anderson. He said that this agreement pertains to the 50' landscape buffer that will be added between these two properties. He noted that Darby Turner, who was present on behalf of Eaton Farm, was present at today's meeting.

Mr. Murphy said that Hospice of the Bluegrass operates in over 30 counties in central and eastern Kentucky; and for some time, they have been considering whether they can provide service for their patients in a free standing center. He then said that Hospice of the Bluegrass provides services in many ways in Lexington and central KY, both in-home treatment and in-patient treatment at a local hospital. He added that Hospice of the Bluegrass does provide services in the hospital, but they are considering whether or not this type of service would be more beneficial in a free-standing center. He said that just over a year ago, a Hospice of the Bluegrass was opened in Hazard, KY; and what they had discovered with that facility was overwhelmingly positive. He then said that the feedback from the patients and their families indicated that they were very happy to have a facility devoted to them. He added that the staff also felt that they could focus their attention on their patients and their families better in a facility that is a free-standing hospice center only.

Mr. Murphy said that, in looking at the subject site, this land would not be well suited for some of the manufacturing facilities that are allowed in the ED zone. He explained that the ED zone does allow multiple types of manufacturing centers, a health care facility or a 50-acre medical campus. He said that the hospice could be placed on a medical campus, as an allowed use; but they want to provide a free-standing center for their patients and their families. He said that, right now, the ED zone allows a medical clinic. The reason they are proposing this facility as a medical clinic, is that under the Capacity Assurance Program for the sanitary sewers there is a deadline on July 3rd to show that they have the capacity. He said that they needed to file the development plan showing sufficient square footage, which would "reserve" the sanitary sewer capacity. He then said that, under normal conditions, they would have filed the text amendment for the hospice use, prior to the proposed development plan; however, due to the quirk in the law, they needed to bring this proposal to the Commission for consideration in order to have the plan certified by July 3rd for the sanitary sewer list for capacity. Mr. Murphy explained that, should the Commission approve the text amendment to allow a hospice to be a principal use in the ED zone, they would be filing an amended development plan. That amendment would eliminate at least half of the parking area on this site. He said that the parking requirement is based upon the number of doctors at that facility and the number of patients those doctors can see during an 8-hour day. He then said that a hospice facility has a lower parking requirement, and the text amendment would reduce this number considerably. If approved, they would be filing the amended development plan in the near future, which would identify this site as a hospice and reduce the parking area. He said that if the Commission does not approve the text amendment, no building permit will be pulled for this project. He then said that, since this is a development plan, they will need to deal with the other issues along with the sanitary sewer, storm water, buffering and access.

Mr. Murphy explained why a hospice would be ideal for this site. He said that there would be a low traffic volume, as the building would only have up to 40 beds and would be providing overnight care. He then said that with the buffering restrictions imposed, it is less attractive to a manufacturing facility. He added that, under the Expansion Area Master Plan, a 50' landscape buffer is required to the north; and they would be installing a fence, along with different types of landscaping species. He said that, to the south along Dr. Poole's property, there is no landscape buffering requirement, but they are agreeable to a tree preservation area along the property line. He then said that to the west of the subject property, more than half of the subject site is within the Scenic Resource Area, and this means that no buildings can be built. Mr. Murphy said that the subject property is 16 acres, and less than half of the land is buildable. He then said that businesses do not want to purchase twice as much acreage knowing that they can not build on it. This is a small tract for any manufacturing facility, and their proposal is ideal for this property because of its low intensity use. He also said that they are adjacent to the Urban Service Boundary. They see this as an advantage because it will provide a serene atmosphere for the patients and their families that would be coming to this hospice. They believe that this property and this use were made for each other. Mr. Murphy said that Mr. Anderson still owns the land to the rear of the subject site; and at some point, Hospice of the Bluegrass may ask Mr. Anderson to donate that land. If not, then the land could be preserved, and they would pay the association's dues for the detention basin.

Mr. Murphy said that all of the EAR-3 area, from Newtown Pike to Russell Cave Road, is planned to have only one pump station constructed. This pump station will be a major facility that will not only serve the EAR-3 area, but it will also eliminate two major pump stations on the south side of I-75 in the residential area. He said that the cost for a pump station of this size is too much for one single developer to take on, so exactions collected from proposed developments, along with the city funding, would help pay for construction of the larger pump station. He then said that until that time comes, his client would provide funds for temporary pump station, out of their pocket, to serve this site. He added that, to ensure that there is capacity, they will go through the normal process to ensure that the lines and the pump station can handle this development. Mr. Murphy said that Vision Engineering had conducted a study, as well as consulted with the Division of Water Quality, and it was determined that there is capacity to handle the sewage from this proposed development. He noted that this development would be using a private pump station that would drain to an existing manhole on Providence Place Parkway. After that connection, the line would then connect to the pump station near the McDonald's on Stanton Way. Mr. Murphy said that everyone is in agreement that there is capacity for this development.

Mr. Murphy pointed out on the rendering the existing storm water detention basin that was constructed by Mr. Anderson, and said that the staff had added a condition to document the ability to drain the storm water to the off-site detention basin. He then said that the water quality feature being shown on the development plan will use the law of gravity for the water to drain toward the detention basin. He added that Vision Engineering is confident that they can demonstrate to the Division of Engineering that the water can be drained to the off-site detention basin.

Mr. Murphy said that, with regards to the access to the site, there is currently one access point on Newtown Pike that they would be using until the adjacent property is developed. He then said that when the adjacent property develops they will be required to make a connection to Mary Faye Place. He added that Mary Faye Place has not been constructed, but it is dedicated to be used as a local street that will connect with Providence Place Parkway. He said that the timing of this road depends on the Poole property being developed; and should that property not be developed, then that connection can not be made. He added that access through the Poole property is not guaranteed until they develop it. Mr. Murphy said that the question remains is if they will be able to retain the access on Newtown Pike when Mary Faye Place is completed. He then said that access on Newtown Pike is critical to this site and it is vital to the mission of Hospice of the Bluegrass. He said that they have checked with the KY Transportation Cabinet to make sure that they would be able to use the existing farm entrance. They had received a letter from KYDOT confirming that there is adequate sight distance, and that the existing entrance can be upgraded to a commercial entrance. He said that this is a conditional approval, subject to the proper documentation being submitted to KYDOT. Mr. Murphy said that they had also spoken with Jeff Neal, Division of Traffic Engineering, and he verbally agreed that it would be alright to keep the entrance as a permanent entrance. He requested that they construct a tapered lane on Newtown Pike to help the flow of traffic going into the subject property.

Mr. Murphy then said that they had also spoken with Captain Charles Bowen, Division of Fire, regarding whether or not they need one or two accesses into the subject site. He explained that, with Mary Faye Place being designated as a local street, there could be a situation that would cause the road to be blocked with emergency vehicles. He said that he has had some experience with his own house being on fire, and the fire department will block the entire street until the situation is under control. He then said that, in speaking with the Division of Fire, they would rather have two access points into the subject property. He added that this makes sense since they will have 40 non-ambulatory bedridden patients at this facility, and

in the event of a fire or an emergency, the patients must be evacuated, and two accesses are better than one. This is why it is important to retain the access on Newtown Pike.

Mr. Murphy said that there has been discussion regarding a 10-acre tract, and he had researched and found a development plan that was approved by the Planning Commission in 2004; reapproved in 2005 and certified in 2006. He then said that, in looking at the development plan, Providence Place is being shown on plan as well as the driveway that was proposed to run through the detention basin. He added that in 2004 the Planning Commission had approved a development plan that shows a permanent access point leading from Providence Place to Newtown Pike. He noted that not only was this to be a permanent access point, it was also to be the construction entrance for the site. He said that there is a note on that development plan that this access would be removed at the time there is access through the adjacent property. He then said that they are not saying that this is the final plan for this property; but at some point in the past, there was an approval for a permanent access point on Newtown Pike. He added that in 2004 the use for this property was not determined, but now they have determined that the appropriate use for this site would be a hospice facility. He said that the access point continues to be important, and further development in this area may not happen for more than 10 years. Mr. Murphy said that this site is within the Urban Service Area, and they understand the concern if this site was outside the Urban Service Area; but from their standpoint they meet the criteria. He then said that the Division of Traffic Engineering has said that there is adequate sight distance, and they will be providing a taper into the property from Newtown Pike. He added that the Division of Fire has said that they prefer two accesses into this site. He asked for the Planning Commission to keep the Newtown Pike entrance as a permanent entrance.

Me. Murphy said that, with regards to the waiver request, they are not proposing a cul-de-sac on the development plan. He then said that they believe this would result in excess paving, but they would mark this area to show where the public street ends and the private property begins. He added that he would not "fall on his sword" to fight against a cul-de-sac because, should the Commission approve their text amendment, they will be amending this development plan to reduce the off-street parking, which will help with the circulation issues. Mr. Murphy said that they would like the waiver request to be approved; but, in any case, they can address that issue on the amended development plan.

Gretchen Brown, Chief Executive Officer, was present. She thanked the Planning Commission for taking the time to listen to their proposal. She explained that they recently built a free-standing hospice in Hazard, KY, and they want to provide the same service as they have provided there in this community. She presented several photographs to the Commission and gave a brief description of each (a copy of the photos is attached as an appendix to these minutes). She said that the subject property is very similar to the Hospice in Hazard, KY, and they were very taken with the horse farms and the Scenic Resource Area. This site would provide a peaceful transition for their patients and their families. She then said that they are concerned with the future land use on the adjacent properties, and they do not want to place a hospice in an area that can not have a beautiful entrance, such as McConnell Springs.

Woodford Webb, Chairman of the Board for Hospice of the Bluegrass, was present. He said that they do not want an unsafe entrance on Newtown Pike; but they do want the transition afforded by traveling through the 10 acres of land, whereas, most manufacture's would not. He then said that they are not obligated to purchase this land, and they can remain at their current facility. He added that if they were to purchase this land, they would need to create that type of site entrance. It would be costly to the organization if the entrance had to be removed in the future. He believes this would be a misuse of the organization's funds. He said that such a Hospice of the Bluegrass facility would be a tremendous asset to Lexington, as well as Kentucky, and this is why they chose this area. He then said that should the Planning Commission disapprove the permanent access on Newtown Pike, it would be a "deal killer" and they would go back to the Board and request to pull the text amendment.

Mr. Murphy concluded their presentation by saying that Hospice of the Bluegrass and this lot were made for each other, and the Scenic Resource Area would provide a peaceful transition from the city to the facility. He then said that they hope the Planning Commission does not limit the access on Newtown Pike to a temporary access. He added that they are in agreement with the staff's revised recommendations and requested approval.

Citizen Comments – Dr. Barbara Poole, 2300 Newtown Pike, said that her property is adjacent to the proposed development and she had a huge concern with the proposed development entrance being provided on Newtown Pike. She said that her driveway is at the peak of the hill, and there is a clear view of the traffic coming from both sides. She explained that there are two signalized intersections on Newtown Pike near the I-75 north-bound ramp and Stanton Way. She said that, if a vehicle is able to catch both green lights, their speed can easily go from 55 mph to 65 mph before that vehicle passes her driveway. She said that, as some of the Commission members may know, recently there was a motorcycle fatality in front of her driveway that was horrible and very disconcerting. She said that she has requested a traffic survey to be done for this area to show both the traffic count and the speed of the cars. She then said that her driveway has semi trucks and horse trailers coming in and out of the property. When looking at Newtown Pike near

her entrance, it is clear that the vehicles are trying to pass the larger vehicles by using the shoulder of the road. This is a concern because the people who are coming out of the hospice property may not have their mind on their driving. She said that when going 55 mph or 65 mph, a vehicle can travel from her driveway to the proposed entrance in 4.5 or 4.2 seconds. She then said that with an 88.1 feet per second stopping range, the distance between her driveway and the proposed site is not adequate enough, especially if the driver is not paying attention to the road. Dr. Poole said that she has dealt with a hospice in the past during her brother's last days and she would love to see Hospice of the Bluegrass at this location, but to have the entrance on Newtown Pike is a bad idea. She then said that the driveway should be moved closer to the Eaton Farm, or the rear access through the detention basin needs to be reconsidered.

Dr. Poole said that she was able to meet with the representatives for Hospice of the Bluegrass, and they did assure that there would be a visual barrier between the proposed development and her property. She then said that with the layout of the proposed development, her property would be looking at the parking area and she is requesting that the Commission grant her the same visual barrier that was granted to her with the property south of her property.

Darby Turner, attorney, was present on behalf of Eaton Farm. He said that they met with Hospice of the Bluegrass and have reached an agreement. He then said that in 2008, Eaton Farm and Dennis Anderson had reached an agreement relative to the type of screening that would be installed along their property boundary. He demonstrated the rendering that is part of the agreement letter between his client and Mr. Murphy's clients. He said that the rendering shows their expectation for the type of landscape buffering that will be installed for the full boundary between these two properties, as well as the Anderson property. Also, they believed they were part of the official notification requirement, but they were not; however, as part of their agreement, Eaton Farm will be part of the official notice group for any future proposals. Mr. Turner said that they have no objections to this proposed development plan and they believe it will offer a nice transition from the agricultural use.

Tommy Hearn, 2300 Newton Pike, was present and said that Hospice took care of his father, and he believes that this type of care is great. He then said that the original access to Newtown Pike for the subject property was denied by the state. He noted that there is a safety concern for vehicles traveling Newtown Pike, and their business has tractor trailers coming in and out of their driveway 24 hours a day, seven days a week. He said that their driveway is located at the top of the hill, and if one of the large trucks is on Newtown Pike, there is no way for traffic to see around them, but vehicles will try to pass them.

Mr. Hearn said that when reviewing the original plat, this road was proposed to run through the subject property, cross the detention basin and connect to Providence Place. He then said that, in reviewing the November 20, 2008, Planning Commission minutes, Mr. Gross had stated that it may be necessary to relocate the retention basin and access easement to provide development access to Providence Place Parkway. He said that this makes more sense because Providence Place is closer to the hotels and restaurants than Newtown Pike. He then said that Newtown Pike can become busy through the year with all of the horse-related businesses. He added that if there is an accident on the interstate, the Newtown Pike corridor will be backed up. Mr. Hearn said that they are in opposition to the Newtown Pike access, and access for this property should be through the adjacent lot connecting to Providence Place, as it was originally proposed. As for access being provided through their land for Mary Faye Place, they have no intention to sell or even develop the land. He said that they have a horse business and they are planning to build another barn for their business.

Mr. Hearn said that they do not object to the type of use, they are objecting to the proposed access on Newtown Pike; and they believe that access should be provided as it was originally planned.

Planning Commission Questions – Ms. Blanton said that the staff had mentioned that access could be temporary or permanent; and she recalled hearing that if the Planning Commission were to approve a text amendment for the hospice use, the staff would be more comfortable with the Newtown Pike access becoming permanent because there would be fewer people coming into this development. Mr. Martin replied affirmatively. Ms. Blanton asked if it would be possible to revise condition #16 to say that the access could be permanent, subject to the approval of a future text amendment. Mr. Martin said that that is the appropriate direction to go, adding that if this was a more intense use, the Division of Traffic Engineering would have a higher level of concern.

Mr. Berkley asked if the design of the detention basin is to serve the larger development, and if the reason there is no water in the basin is due to the lack of development in this area. Mr. Martin said that that is correct.

Ms. Mundy said that Mr. Murphy had submitted a letter from the KY Transportation Cabinet, and the State does not have a problem with the entrance on Newtown Pike. She then said that the letter also speaks to providing a flared lane into the subject site or traffic on Newtown Pike, and asked about Dr. Poole's property. She said that there are tractor trailers entering and leaving that property, and asked if the State could be

contacted to possibly provide a flared lane at that location, as well as reduce the speed limit on Newtown Pike up to Iron Works Pike. She said that she understands that this is not within the City's jurisdiction, but this would help deal with the traffic issue. Mr. Martin said that it is the staff's understanding that the state generally reviews those requests based upon engineering standards, traffic reports and accident reports; then this information is evaluated over time before making a decision to adjust the speed limit.

Ms. Mundy asked, in an effort to help reduce the speed limits, if a precedent would be set by having a sign on Newtown Pike reading "medical facility." Mr. Martin said that there is usually a reaction to an identified problem. This is a planned development, and they are trying to anticipate that there may be problems associated with it.

Mr. Penn said that when Providence Place was developed, there was a huge detention basin constructed next to the Poole property. He asked if this was "just for looks" or if it was intended to be used as a detention basin. Mr. Martin said that this is intended to be a detention basin. Mr. Penn then asked, if the detention basin is as large as it is, then why there needs to be another detention basin where the road could go. Mr. Martin said that the Division of Engineering would need to answer that question. Mr. Penn said that he does not understand why the detention basin was constructed in that location because it covers several acres, and that he does not understand why there are two detention basins, especially given the size of the existing detention basin on Newtown Pike. In response, Mr. Newman said that the detention basin was part of the original design that came in with the roadway, and it had to be constructed to serve Providence Place Parkway and the future developments in this area. Mr. Penn asked if both basins are necessary. Mr. Newman said that, at that time, that was part of the engineers' design. Mr. Penn said that in a past meeting, a former Commission member had asked Al Gross if this basin would landlock this property with regard to access. His response was that it would not and he added that the smaller basin could be taken out to construct the roadway. Mr. Penn said that the detention basin on Newtown Pike is huge in comparison to the detention basin on the rear property. He wondered why that detention basin was built as large as it was, and whether or not both are necessary. Mr. Newman said that he would defer to the original engineering design and the ability to modify that design or reduce the size. Mr. Martin said that there is a scenic setback that runs through this area and along Newtown Pike, and that setback is on a ridge. It is possible that the two basins were positioned to catch the drainage from the high slope in each direction; but without reviewing the plans, the staff could not be sure.

The Chair said that the original location of the basin was farther east, closer to Providence Place Parkway; and, according to past minutes, the back retention basin could be relocated, if necessary to provide access for the subject property. He said that it sounds like the applicant will need to amend this plan should the text amendment be approved by the Commission, and asked if it is possible to defer the actual approval of access at this time. This would allow time to explore the possibility of the access connecting to Providence Place Parkway, as it was originally intended. Mr. Martin said that, when there is a situation such as this, to have access in the future, it is best to reevaluate the access at the time those alternatives are available. The Chair asked if the approval of the access can be deferred until a later time. Mr. Martin said that the rear access is not currently available to the applicant at all. He then said that the rear access would need to be there for the applicant to utilize before denying access to Newtown Pike, and added that the rear access is outside of the applicant's control.

Ms. Beatty she said that she understands why the applicant wants access on Newtown Pike, and asked how the rear access can become available. Mr. Martin said that access could be available as more development occurs; or should the applicant negotiate a deal with Mr. Anderson to provide the additional access. He then said that access to a property happens as that property develops, and this is why an area is reevaluated.

Ms. Beatty confirmed that Mr. Anderson is the property owner of the land to the rear, and asked if the detention basin includes the Poole Property. Mr. Martin replied that the detention basin is controlled by Mr. Anderson.

Rebuttal – Mr. Murphy said that they conferred with the Kentucky Transportation Cabinet, and they agreed that the access to the subject property would be a safe access point on Newtown Pike. He then said that Newtown Pike was reconstructed prior to the World Equestrian games to provide a wider shoulder area and create a better sight distance for the vehicles traveling this area. Mr. Murphy said that they are showing a tree preservation area along Dr. Poole's property line on this development plan. He then said that, if needed, they could move the access point farther north with the approval of the KY Department of Transportation and the Division of Traffic Engineering. Mr. Murphy said that the scenic setback was designed to create an open vista from the ridge line to Newtown Pike. He then said that there are two detention basins in the area; and at the time the rear basin came through, it was a controversial item. He added that that basin was fully permitted through every agency, and it will eventually serve all the surrounding properties. Mr. Murphy said that Hospice of the Bluegrass must deal with their position as of today, and they must make an investment in this property today. He then said that they can not make an investment into the property knowing that in three years the access point on Newtown Pike may not be available to their site if the adjacent properties were to develop. They need the access on Newtown Pike to

be permanent, especially since Dr. Poole has clearly said that they have no intention to develop their property. Mr. Murphy said that hospice care is not a medical facility and it is a lower intensity use, which is appropriate for what they are proposing. He then said that the approval from the state is geared toward any use that may be placed on this property. He added that they would hate for this request not to go forward due to a prospect of something that may never happen. In conclusion, Mr. Murphy said that they believe this type of use is appropriate for this area, and they are requesting that the Commission not impose a condition restricting the access on Newton Pike as "temporary access".

Dr. Poole said that she is unsure what "preserve the tree line" means, because as of right now there are Hackberry and Cherry Trees, as well as Honeysuckle there. She then said that if the Honeysuckle is removed, it will create a rough fence row between the two properties. Dr. Poole requested the same type of landscaping that was agreed upon for her southern property line. This landscaping included a full visual barrier with fencing, trees and shrubs. She said that with the incoming and outgoing vehicles, this type of landscaping is better and safer for the horses and the paddock area. She added that this type of landscaping would also keep pedestrians away from the horses.

Mr. Murphy said that, in speaking with his clients, they area agreeable to planting additional trees along the property line to create a solid visual buffer between the hospice property and Dr. Poole's property.

Mr. Hearn noted that he is against a permanent access point on Newtown Pike and said that, in reviewing the November 20, 2008, minutes it was stated by Al Gross that *"access may be available through Dr. Poole's property, or it may be necessary to relocate the retention basin and access easement to provide developed access to Providence Place Parkway."* He said that since Mr. Anderson owns this land and the land to the rear, the applicant needs to speak with Mr. Anderson to provide the rear access to Providence Place Parkway.

Planning Commission Discussion – Ms. Plumlee said that this discussion is not about the worthiness of Hospice, but it is about the type of land use. She then said that she is concerned with the Newtown Pike entrance because it is a piano-key type situation, which the Commission has avoided in the past. She added that she is concerned with a stub road leading to the Poole property and believes this would place undue pressure on Dr. Poole to develop their land. She then said that, as for the detention basin situation, she hasn't figured that out and she doesn't believe anyone else has either.

Ms. Plumlee said that, in reviewing the Goals and Objectives, item "e," it is suggested that development be contiguous. Now they are skipping over pieces of land, and it is leaving questions unanswered.

Mr. Penn said that when the ED land and Providence Place Parkway were proposed, Providence Place Parkway was to be a main corridor with signalized lights, if necessary. He then said that, suddenly, with the first potential development north of Providence Place Parkway, no one wants to use Providence Place Parkway and it creates a piano key situation on Newtown Pike. Mr. Penn said that in a past meeting, Ms. Whitman was right when she asked, with the Commission's approval for the zone change, if the property would be land locked. He then said that this land is locked because the future developments are being pieced together. He added that he understands why the applicant is here and he likes the type of use, but he does not want to kill someone because of a bad job of planning. He said that 350 feet over the crest of hill is not enough time to stop even if a vehicle is going 50 mph, let alone 65 mph. Mr. Penn asked if there has to be multiple fatalities before a connection is made to Providence Parkway. He then said that trying to make a left or a right turn, over the hill, is not a safe situation. He added that the proposed use is ideal for this land, but the connection for this property should had been made to Providence Place Parkway. He noted that, should he vote against the proposed development, he is not voting against Hospice of the Bluegrass, but against not using Providence Place Parkway.

Mr. Cravens said that he was present during the previous discussions on the retention basin; and when choosing a piece of property to locate a business, ingress and egress are everything to that site. He then said that if a buyer can not have the right entrance and exit for their site, they will not buy that property. He added that, in his opinion, an existing entrance will trump everything else. As for this entrance, it has existed for a long time and the limits of this property should be reviewed. Mr. Cravens said that Hospice of the Bluegrass does not own the retention basin and they are not purchasing that land. They are only using that retention basin for drainage away from their site. He said that if this access should not be allowed to this site, perhaps access should not be allowed to Dr. Poole's farm. Perhaps access should be made off Providence Place Parkway for not only these properties, but for the entire development. Mr. Cravens said that he has had experience with Hospice, and he believes this would be an excellent place to provide this service. This is a very tranquil area and the proposed entrance would be calming. He said that they have received a letter from the KY Transportation Cabinet stating that there is adequate sight distance to upgrade the existing entrance. He added that he would be in favor of making the Newtown Pike entrance into a permanent entrance.

Ms. Blanton said that she understands the concerns with the access on Newtown Pike, and this would be a very valid discussion if this were a zone change. She then said that the land was zoned ED and this use will have the lowest traffic volume that is allowed in the ED zone. She added that the discussions have been whether or not to make this a temporary or permanent access, but the connections through the adjacent property and the rear properties may be available for years down the line. She said that to have a semi truck entering and exiting onto Newtown Pike, as well as people making their shift changes, would be more intrusive than the proposed use in the ED zone. Ms. Blanton said that she is also in favor of making Newtown Pike entrance a permanent entrance. She then said that she is sympathetic to the concerns, but this is ED land and that is what they are dealing with.

Mr. Berkley said that he can not think of any other use that would be appropriate for this area other than the proposed hospice facility. He then said that this property provides a perfect setting to allow a transition into the rural area. This property is supported by the adjoining property to the north and to the east. He added that KY Transportation Cabinet and the Division of Traffic Engineering have approved this entrance as a permanent entrance, which is important to the Commission's decision. He said that he does have an issue with going against what the professionals are saying and, for safety reasons, there is a need for a second entrance into this property. Mr. Berkley said that he is also in favor of making the entrance on Newtown Pike a permanent entrance.

Ms. Beatty said that this type of use is extremely compatible for this property, and she agrees with Ms. Blanton in saying that this is ED land and this use conforms to the Comprehensive Plan. She added that this proposed use looks good and it feels good for this area; however, she does understand that there is a concern with the safety on Newtown Pike. She then said that she is well aware of the motorcycle fatality in front of Dr. Poole's entrance, and it was mentioned that there may need to be multiple fatalities before a connection is made to Providence Place Parkway; but at this point in time, there have not been any fatalities at this location. She added that she is leaning toward a permanent entrance for this site, but at the same time, she is criticizing the Commission as planners. She said that the vision is there but the connections can not be made to provide a smoother transition. Ms. Beatty said that this proposed use is compatible with the ED zone, it is the right thing to do for this area; and she is leaning toward making the access permanent.

Ms. Mundy said that she has also had dealings with Hospice, and she does not have the experience as other do members with the history of this area. There have been discussions concerning the ED area, but nothing seems to be able to move forward. She said that this type of use it's a perfect fit for this property because it is a tranquil area with horse farms on each side. She then said that she is also in support of the proposed development plan and making the entrance to Newtown Pike permanent. She requested that the KY Transportation Cabinet review this area in an effort to reduce the speed limit.

The Chair said that he agrees that the hospice facility provides great services to families. He also agrees that this site is a perfect setting for this facility, but his concern is Newtown Pike. He agrees with Mr. Penn's comments and that the original connection would be made to Providence Place Parkway. Information was given to the Commission stating that the retention basin could be relocated, if necessary, to provide access to this development from Providence Place Parkway. He acknowledges that Newtown Pike has had improvements in the past few years, but the traffic traveling this road has become much faster. He said that there has been one fatality mentioned, but more recently there was another fatality closer to this entrance, due to the traffic coming over the hill at a high rate of speed. The Chair said that Dr. Poole's entrance was mentioned, and the intent for this land would be to have a connection made through Mary Faye Place. He then said that the entrance into the subject property has existed for many years, as an agricultural entrance way, not a commercial entrance way. He added that he believes that this should go back to the original intent as far as access being provided off Providence Place Parkway.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy to approve DP 2013-36: KINGSTON HALL, UNIT 2 (EAST BRIDGEFORD LAND & DEVELOPMENT CO) (AMD), subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection.
9. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
10. Revise, delete, correct notes #9-#13 to the approval of the Urban Forester.
11. Kentucky Transportation Cabinet approval of any Newtown Pike access location.
12. Clarify building square footage and parking floor area proposed.
13. Document ability to drain storm water to off-site detention basin.

14. Denote compliance with note #11 on preliminary plan.
15. Addition of cul-de-sac to be included on the development plan.
16. Newtown Pike entrance/access will be permanent and tapered into the site.

Discussion of Motion – Ms. Beatty asked if the waiver is part of the motion. The Chair replied affirmatively.

The motion carried 9-0 (Brewer and Roche-Phillips absent).

The Chair asked the staff if the Commission needs to make a motion on the waiver. The staff responded affirmatively. Mr. Cravens said that he does not know why this waiver is needed, and if he makes a motion on the waiver he would recommend it again for the Commission's approval.

Action - A motion was made by Mr. Cravens to approve the waiver for DP 2013-36: KINGSTON HALL, UNIT 2 (EAST BRIDGEFORD LAND & DEVELOPMENT CO) (AMD), for the following reasons:

1. Dr. Poole has stated that they would not be developing their property and there would not be any access to Providence Place Parkway; therefore, Mary Faye Place would be terminated.

Discussion of Motion – The Chair asked if the motion on the floor is stating that Mary Faye Place would be terminated at Dr. Poole's driveway. Mr. Cravens said that a connection would not be made through the Poole property. The Chair responded that the waiver is not needed if the connection is not going to be made. Mr. Cravens asked how they should deal with the waiver, to which the Chair suggested that the waiver be disapproved. The Chair then asked for guidance from the Law Department as to how to the Commission should address the waiver. Tracy Jones, LFUCG attorney, said that she believes that Mr. Cravens is saying that there would be no negative impact on public safety by approving the requested waiver. The Chair asked if Mr. Cravens was in agreement with Ms. Jones's statement. Mr. Cravens agreed.

The motion was seconded by Ms. Mundy.

Discussion of Motion – Mr. Penn said that since this will not be the ultimate development plan that the Commission will be seeing, he sees no reason for approval of the waiver at this time. He then said that he disagrees with the motion on the floor and recommends upholding the staff's recommendation for disapproval.

Ms. Plumlee also agreed to uphold the staff's recommendation for disapproval.

The motion failed 4-5 (Penn, Plumlee, Blanton, Beatty and Owens opposed; Brewer and Roche-Phillips absent).

The Chair confirmed that the requested waiver had been disapproved.

Note: A recess was declared by the Chair at 3:43 p.m. During this time, Mike Owens departed the meeting and Mike Cravens chaired the remainder of the meeting. Mr. Wilson also returned to the meeting. The meeting re-convened at 3:51 p.m.

Note: The following three items were presented concurrently.

- b. PLAN 2013-52F: CHANCELLOR SUBDIVISION, (UNIT 1B, BLOCK B, LOT 2) & SPRINGDALE SUBDIVISION (UNIT 2, BLOCKS B & C) (7/8/13)* - located at 2020 Harrodsburg Road.
(Council District 11) **(Endris Engineering)**

Note: The purpose of this amendment is to subdivide one lot into three lots and to add utility easements.

The Subdivision Committee Recommended: Postponement. There were questions regarding the possible need for improvements to Harrodsburg Road and Mitchell Avenue.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
8. Addition of drainage easements, to the approval of the Division of Engineering.
9. Discuss traffic calming for Mitchell Avenue.
10. Discuss possible improvements to Harrodsburg Road and Mitchell Avenue.

* - Denotes date by which Commission must either approve or disapprove request.

- c. DP 2013-51: CHANCELLOR SUBDIVISION (THE SPRINGS, LOT B) (7/8/13)* - located at 2000-2020 Harrodsburg Road. (Council District 11) **(Barrett Partners)**

The Subdivision Committee Recommended: Postponement. There were some questions regarding the street access proposed and the possible need for public street improvements.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Clarify "D-D" cross-section.
10. Addition of Harrodsburg Road improvements (right turn lane).
11. Relocate parking and drive aisle farther from residential zone (on Lot D).
12. Discuss need for Mitchell Avenue traffic calming improvements.
13. Discuss necessary cut-through traffic calming improvements.
14. Discuss parking conflict on service road.
15. Discuss lighting relative to residential area, per note #17 on Preliminary Development Plan.
16. Discuss amount of parking proposed.
17. Discuss drive-through speaker volume on restaurant "B".
18. Discuss lack of internal pedestrian connections.
19. Discuss note #20 on preliminary development plan.
20. Discuss 2nd floor retail use (Lot D) proposed.

- d. DP 2013-52: CHANCELLOR SUBDIVISION (THE SPRINGS, LOT C) (7/8/13)* - located at 2000-2020 Harrodsburg Road. (Council District 11) **(Barrett Partners)**

The Subdivision Committee Recommended: Postponement. There were some questions regarding the street access improvements.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmentally Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Clarify "D-D" cross-section (width).
11. Addition of Harrodsburg Road improvements (right turn lane).
12. Relocate parking and drive aisle farther from residential zone (on Lot D).
13. Discuss need for Mitchell Avenue traffic calming improvements along property frontage.
14. Discuss cut-through traffic calming design features.
15. Discuss parking conflict along service road (access easement).
16. Discuss lighting relative to residential area, per note #17 on Preliminary Development Plan.
17. Discuss amount of parking proposed.
18. Discuss internal pedestrian connections.
19. Discuss note #20 on preliminary development plan.
20. Discuss 2nd floor retail use (Lot D) proposed.

Staff Presentation – Directing the Commission's attention to the three renderings for the Chancellor Subdivision (The Springs), Mr. Martin presented one final record plat (PLAN 2013-52F) and two development plans (DP 2013-51 and DP 2013-52) for property located at 2000-2020 Harrodsburg Road. He explained that, since there are two different property owners anticipated for each of the development plans, they have asked to submit each request separately, so they might pursue two different schedules of development. The staff felt this would be appropriate to prevent any one issue negatively impacting the other development. He said that, from a practical point of view, whichever plan is certified first, the second plan would need to reflect the information on the first plan. He then said that the staff does not believe this

* - Denotes date by which Commission must either approve or disapprove request.

to be a serious problem since the information is consistent on each of the plans, adding that each plan is currently identical to the other.

Mr. Martin directed the Commission's attention to the final record plat rendering, and oriented them to the surrounding area and street system. He said that the subject property is located at the intersection of Harrodsburg Road, Lane Allen Road and Mitchell Avenue, noting the location of the CVS Drugstore is at the corner of this intersection. He said that the purpose of this amendment is to subdivide one lot into three lots and to add utility easements. He then said that any issues impacting the plat are primarily development plan conditions.

Mr. Martin said that the Subdivision Committee recommended postponement of this request due to questions regarding the possible need for improvements to Harrodsburg Road and Mitchell Avenue. He then said that the staff and other LFUCG staff had met with the representatives for this development, and the applicant had submitted a revised submission to the staff on June 12th that addressed several conditions previously identified by the Subdivision Committee. After review of the development plans submitted for these proposed lots, the staff is recommending approval for the final record plat, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
8. Addition of drainage easements, to the approval of the Division of Engineering.
- ~~9. Discuss traffic calming for Mitchell Avenue.~~
9. ~~10. Discuss possible Kentucky Transportation Cabinet's approval of right turn lane improvements to Harrodsburg Road and Mitchell Avenue.~~

Mr. Martin then directed the Commission's attention to a single development plan rendering, and said that the applicant is proposing to develop Lots B and C, but not Lot D. He noted that Lot D was shown on the preliminary development plan when the CVS request was approved by the Commission, and it will continue to remain listed as a preliminary development plan. Mr. Martin explained that, in the general vicinity, there is a McDonalds that will be relocating to Lot B, and Lot C will be used for a Rafferty's restaurant. He said that the applicant is proposing 6,300 square feet of buildable area for Lot B (McDonald's restaurant), 10,000 square feet for Lot C (Rafferty's restaurant), and 18,000 square feet for Lot D. He noted that Lot D will not develop without the Commission's approval of a final development plan.

Mr. Martin said that the applicant is proposing to utilize the existing access point along Harrodsburg Road, and noted that that access point had been approved at the time the CVS Drugstore was approved by the Commission. He added that the drive aisle near Harrodsburg Road was part of that approval. He said that there is a right-in and right-out closer to the signalized intersection, as well as a right-in and right-out on Lane Allen Road. There is also a full access point on Mitchell Avenue. Mr. Martin said that the overall parking for this request is 346 spaces, and this number also includes the parking for the CVS Drugstore.

Mr. Martin said that the applicant has indicted two additional underground detention basins on the subject site that would be similar to the underground basin constructed on the CVS lot. One basin will be on Lot B and the other basin will be on Lot D. He said that, should Lot D be developed in the future, this section of the request may need to change due to the topography of the area. He said that there will also be a detention basin at the edge of the property, near Harrodsburg Road between Lot C and the nearby neighborhood. He then said that there is a large drainage easement that runs the length of the property toward Kay Spring, and noted that this drainage easement is piped to run under Harrodsburg Road and Turfland Mall ending at Wolf Run Creek.

Mr. Martin said that the Subdivision Committee recommended postponement of this request due to questions regarding the street access proposed and the possible need for public street improvements. He then said that the staff had received a revised submission for these plans on June 12th that addressed many of the conditions previously identified by the Subdivision Committee. The staff can now provide a revised recommendation for each of these development plans.

Mr. Martin directed the Commission's attention to the staff's revised recommendation for DP 2013-51, briefly explaining that conditions #1 through #8 are standard sign-off requirements from the different divisions of the LFUCG, and the remaining conditions are "clean-up" items. He then said that the staff is recommending approval of this request, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.

3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. ~~Clarify "D-D" cross-section.~~
10. ~~Addition of Harrodsburg Road improvements (right turn lane).~~
11. ~~Relocate parking and drive aisle farther from residential zone (on Lot D).~~
9. 42. Discuss need for Denote Mitchell Avenue traffic calming improvements, timing of installation and cost sharing.
13. ~~Discuss necessary cut-through traffic calming improvements.~~
10. 44. Discuss Resolve parking conflict on service road by designating "employee parking only" areas.
15. ~~Discuss lighting relative to residential area, per note #17 on Preliminary Development Plan.~~
16. ~~Discuss amount of parking proposed.~~
17. ~~Discuss drive-through speaker volume on restaurant "B".~~
18. ~~Discuss lack of internal pedestrian connections.~~
19. ~~Discuss note #20 on preliminary development plan.~~
11. 20. Discuss Change 2nd floor retail use (Lot D) proposed to office uses and revise parking statistics.

Mr. Martin then directed the Commission's attention to the staff revised recommendation for DP 2013-52, briefly explaining that conditions #1 through #9 are standard sign-off requirements from the different divisions of the LFUCG, and the remaining conditions are "clean-up" items. He then said that the staff is also recommending approval of this request, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. ~~Clarify "D-D" cross-section (width).~~
11. ~~Addition of Harrodsburg Road improvements (right turn lane).~~
12. ~~Relocate parking and drive aisle farther from residential zone (on Lot D).~~
10. 13. Discuss need for Denote Mitchell Avenue traffic calming improvements, along property frontage including timing of installation and cost sharing.
14. ~~Discuss cut through traffic calming design features.~~
11. 15. Discuss Resolve parking conflict along service road (access easement) by designating employee parking areas.
16. ~~Discuss lighting relative to residential area, per note #17 on Preliminary Development Plan.~~
17. ~~Discuss amount of parking proposed.~~
18. ~~Discuss internal pedestrian connections.~~
19. ~~Discuss note #20 on preliminary development plan.~~
12. 20. Discuss Change 2nd floor retail use (Lot D) proposed to office uses and revise parking statistics.

Mr. Martin said that, immediately after the Technical Committee meeting, the staff began communicating with the applicant on the various issues associated with these plans. On July 8th, the applicant met with the staff and other governmental agencies to thoroughly discuss these proposals; and during that meeting, many of the issues were resolved. This meeting resulted in the applicant's commitment and the revised recommendation from the staff.

Mr. Martin briefly explained that several of the conditions listed are related to the impact these developments would have on the nearby neighborhood and what traffic calming devices could be used on Mitchell Avenue. He then said that the applicant is proposing traffic calming devices, such as raised tables, within the service aisle along Harrodsburg Road. This preventive measure will help traffic slow down, through the proposed development, to gain access to Mitchell Avenue. Also the applicant is proposing a considerable amount of turns throughout the development, which would help to slow the incoming traffic even further. The staff believes the applicant has addressed the traffic calming issue through the development in a good manner. He said that the applicant is also proposing cross-walks and sidewalks through the site to address the pedestrian connections between each use.

Mr. Martin said that, at the time the CVS Drugstore was approved, the Commission was concerned with the type of lighting that would be used. He then said that the Ordinance clearly stated that lights will be directed

downward and away from adjoining properties. This is done using box-type fixtures. He said that there was some discussion with the height of the lights, and it is the staff's understanding that each use has its own standards. He then said that the applicant is willing to coordinate with each use to address the height issue in a consistent manner by using the shoebox type fixtures. Mr. Martin said that, as for the speakers used in the McDonald's drive-through, the applicant has stated that the type of speakers that will be used responds to the ambient noise. For example, if a loud vehicle were to come through the drive-through; the speaker volume would be louder; and if the vehicle is quieter, the speaker volume is lower.

Mr. Martin said that, when reviewing the rendering, Lot D is noted as having retail uses on both the 1st and 2nd floors. The staff was concerned with the parking on Lot D and is requesting that the 2nd floor use be changed to office uses. He said that the applicant would need to change this before the final development plan is submitted to the Commission for consideration.

Mr. Martin said that the remaining issues for this development are the access into the site, the parking within the development, and traffic impact on the nearby area. He directed the Commission's attention to the staff exhibit for trip generation rates, as well as the parking information handout. He said that, at first glance, the cumulative numbers for this site seem to be high; but when looking at the CVS Drugstore, that use has more parking than what is recommended, unlike Lot B (McDonald's) and Lot D. He said that parking for Lots B and D is a little over what is required by the Ordinance. What concerned the staff on this proposal was the requested parking for Lot C (Rafferty's restaurant). He said that the applicant is proposing that the parking on Lot C be more than doubled. He noted that the applicant has revised the development plan to increase the indoor seating; in turn, this increased the parking requirement on Lot C, and the parking overage is not as high as it was before the change. The applicant is requesting 146 parking spaces, and submitted data from other Rafferty's restaurants; and they are very sure that this amount will be needed for the restaurant to function smoothly. Mr. Martin said that the staff has reviewed the applicant's information, as well as spoken to the Division of Traffic Engineering, and the staff is comfortable with the information provided by the applicant. He then said that the information included was the number of employees who needed parking. He added that the applicant had good supporting evidence from other Rafferty's, including the restaurant in Hamburg Shopping Center. He said that the applicant is requesting eight more parking spaces than what the Rafferty's currently has at its Hamburg location.

Mr. Martin explained that the staff had concerns with the proposed parking along the drive aisle, and said that even though there will be two drive-through lanes, the drive aisle would create the potential for the cars to stack, impacting the traffic on Harrodsburg Road. He then said that the staff had requested a right-turn lane to be added to Harrodsburg Road; and in the beginning the applicant was reluctant, but they are now showing that right-turn lane into the property on the revised submission. He said that the right-turn lane will require the applicant to use most of the street frontage along Harrodsburg Road; but the potential conflict is now reduced, and the staff is more comfortable with the proposed development. The staff has placed a condition on each of the development plans to resolve the parking conflict on the service road by designating that area as "employee parking only." He said that, by designating this area for employees only, it would help reduce the impact that this development will have, especially with the number of drive-through trips that restaurants can generate. He then said that, on the CVS proposal, the Commission had strongly expressed that Mitchell Avenue needed to be protected from the potential increase in traffic cutting through this development. Mr. Martin said that the city and the applicant agreed to financially participate in providing traffic calming devices, such as speed tables, on Mitchell Avenue. He then said that there have been other discussions to provide additional items; but at this time, the applicant had made an agreement with the neighborhood and the city to participate in providing traffic calming devices on Mitchell Avenue. Along with the layout of this development, the staff believes this to be important in order to help slow down the traffic on Mitchell Avenue.

Mr. Martin explained that there were concerns with the storm water runoff, and said that there are standards that govern the storm water quantity control, as well storm water quality. He then said that, with a redevelopment of an existing site, the applicant is not held to the same requirement as they would when a greenfield is developed. However, with the construction of the CVS Drugstore, the tone was set; and the applicant is proposing water quantity or detention controls. In addition, the applicant is required to meet the water quality standards on this development. He said that the applicant has stated that they will be exceeding those standards on the McDonald's lot.

Mr. Martin ended the staff's presentation, by saying that, on the Final Record Plat, the applicant will need to show the appropriate right-of-way along Harrodsburg Road in order to accommodate the right-turn lane. He then said that, since the design of the right-turn lane has not been completed, the applicant will need to have that approved by the Transportation Cabinet, as well as depict it on the plan before its certification. He added that, with regards to the easements on the property, the staff wants to make sure that this area has adequate space to accommodate what is already on the site. Mr. Martin said that the staff is recommending approval of the final record plat and both development plans for this property.

* - Denotes date by which Commission must either approve or disapprove request.

Planning Commission Questions - Mr. Wilson asked if there is a stop sign on Mitchell Avenue and Lane Allen Road. Mr. Martin replied affirmatively, and added that there is also a cross-walk that was added with the CVS development. He said that there are two signalized intersections on Harrodsburg Road. One is at Lane Allen Road, and the other is at the entrance of Turfland Mall.

Mr. Wilson asked where the traffic reduction devices would be placed on Mitchell Avenue. Mr. Martin said that, in speaking with the Division of Traffic Engineering, it is recommended that the devices be placed outside of the curved road and further down in the neighborhood.

Ms. Plumlee asked where the dumpsters are located. Mr. Martin said that the dumpsters will be located at the rear of the restaurants, adding that the restaurants would be using private services. He noted that they would need to meet the requirements for a double enclosure.

Ms. Mundy said that, even though the service road will be designated as employee parking, she is concerned with people parking and backing out in this area. She then said that there are 4 parking spaces and multiple aisles near the entrance, and this area will be a nightmare for accidents. Mr. Martin said that the Planning staff and the Division of Traffic Engineering agreed that the entrance would be problematic; but with the right turn, the traffic calming devices and the parking spaces being designated as "employee only," the staff felt a level of comfort with this layout.

Ms. Beatty asked since there is plenty of parking if the 4 parking spaces are needed to meet the parking requirement. Mr. Martin explained that the applicant had submitted their traffic count for this development and the number of spaces that would be needed for the operation of these restaurants.

Representation – Tony Barrett, Barrett Partners, was present, along with representatives from the proposed Rafferty's and McDonald's restaurants. He thanked the staff and the Mitchell Avenue Neighborhood Association for their cooperation and help on these proposals. He said that, with each meeting, these proposals advanced and they made good strides with this development.

Mr. Barrett said that they understood the concern with the lighting on these developments and they are to use a minimal amount of lighting, based on photometrics, for the safety and security of the night-time customers. He then said that they are will be using a shoebox style light structure and they are committed to directing the lights downward and away from the adjoining residential properties.

Mr. Barrett said that, as for the storm water issues, they are meeting and exceeding the storm water quantity and quality, using the surface basin at the corner of Rafferty's as well as the underground basins on the McDonald's property.

Mr. Barrett said that, even though the state has stated that a right-turn lane is not required, the applicants have agreed to construct it; and they are absorbing that cost.

Mr. Barrett said that, as for the parking, Rafferty's has 20 restaurants throughout the southeast, and they are not interesting in having more parking than what that particular site needs. He said that in the beginning they had started with 149 parking spaces, and now they are down to 140 parking spaces. He then said that he has studies of other sit-down restaurants in Lexington and they are consistent with the number of parking spaces for this development. He added that Rafferty's corporation knows what they need to run their restaurants smoothly. He said that this development is not a strip center and this is not an urban center with a network of parking on streets. Their parking is on site, and they do not want to place the burden on Mitchell Avenue. He said that the Springs Motel was a destination spot in Lexington; and at that time, their parking count was the same as what is being proposed for this development. He then said that the Springs Motel was overrun with parking due to the people visiting the motel for different venues, and there were times that the parking spilled on to Mitchell Avenue. He said that they want to contain their parking on site and not have it spill on to Mitchell Avenue. He then said that they feel the requested parking is appropriate to accommodate the needs of the restaurant. As for the 4 parking spaces previously mentioned, these have been identified as "employee parking only," and the employee shift changes are during the slow time for the restaurant.

Mr. Barrett said that they have had a number of meetings with the neighborhood association concerning the traffic calming on Mitchell Avenue, and in the beginning the applicant had originally proposed to contribute \$5,000 toward a fund for the traffic calming devices. At a subsequent meeting with the city, the applicant was told that the city could not contribute to the cost sharing, and told the applicant it would cost \$10,000 for one device, so the applicant increased their funds to \$10,000. He said that they had met with the neighborhood association to let them know what the city had said, but the neighborhood association felt that the \$10,000 contribution did not suit their interest as to how they wanted Mitchell Avenue to be addressed. Therefore, the applicant increased their contribution to \$20,000 to allow two calming devices to be constructed. This amount will be payable to the Lexington-Fayette Urban County Government and directed

specifically for the Mitchell Avenue funding for these devices. He said that that money would be provided at the real estate closing of these stores.

Mr. Barrett said that they have met or exceeded what is listed on the staff's recommendation; and they are in agreement to what is being requested by the staff, and requested approval.

Planning Commission Questions – Mr. Wilson said that he understands they are trying to contain the parking on site, and asked if signs will be used to restrict the parking on Mitchell Avenue. Mr. Barrett said that restricting parking on Mitchell Avenue was not discussed; and there is a process that the Division of Traffic Engineering must go through before restricting an area; but the applicant could discuss that with the staff.

Ms. Plumlee said that the applicant is contributing \$20,000 for the traffic calming devices, and asked who will be building those devices. Mr. Barrett said that the city would install those devices.

Audience Comment – The Vice Chair asked if anyone in the audience wished these discuss this requests. Michael Galbraith, 587 Mitchell Avenue, was present on behalf of the Mitchell Avenue Neighborhood Association. He thanked the developers for their willingness to coordinate and cooperate with the residents regarding their concerns with the site designs and, more importantly, the traffic impact. He then said that they want to acknowledge their generous contribution that they have provided for the traffic calming implementation for their street, which is primarily single-family owner-occupied homes. He added that, as it was explained, the money will be placed into an account with the city. The neighborhood association looks forward to working with the city on the design and implementation of these devices for the 5-year limit that will be placed on the agreement. He said that because of this funding, the commitment and the site design and improvements that the developers have been willing to include on the plan, the Mitchell Avenue Neighborhood Association supports this request, as it was presented.

Planning Commission Questions – Mr. Penn thanked everyone who worked on this project, and said that from where the project stood at Subdivision Committee to what has been presented to the Commission is truly amazing, and this is an impressive team. He then said that the Mitchell Avenue Neighborhood Association came to the Subdivision Committee to express their concerns and the applicant worked with the neighborhood addressing their concerns. He added that he wished that all requests had the same cooperation as did this request. Mr. Penn said that he does not have any issues with the development plan request, and it has been amazing to watch this happen.

Ms. Beatty said that she agrees with Mr. Penn, and added that this is a good example of two different entities coming together when there are so many discussion items at the beginning. She then said that for an established residential neighborhood and two development entities working out their concerns, everyone should be applauded. She added that this development has her approval.

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 8-0 (Brewer, Owens and Roche-Phillips absent) to approve DP 2013-51: CHANCELLOR SUBDIVISION (THE SPRINGS, LOT B), subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Denote Mitchell Avenue traffic calming improvements timing of installation and cost sharing.
10. Resolve parking conflict on service road by designating employee parking only areas.
11. Change 2nd floor retail use (Lot D) proposed to office uses and revise parking statistics.

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 8-0 (Brewer, Owens and Roche-Phillips absent) to approve DP 2013-52: CHANCELLOR SUBDIVISION (THE SPRINGS, LOT C), subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmentally Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.

9. Division of Waste Management's approval of refuse collection locations.
10. Denote Mitchell Avenue traffic calming improvements including timing of installation and cost sharing.
11. Resolve parking conflict along service road (access easement) by designating employee parking areas.
12. Change 2nd floor retail use (Lot D) proposed to office uses and revise parking statistics.

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 8-0 (Brewer, Owens and Roche-Phillips absent) to approve PLAN 2013-52F: CHANCELLOR SUBDIVISION, (UNIT 1B, BLOCK B, LOT 2) & SPRINGDALE SUBDIVISION (UNIT 2, BLOCKS B & C), subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
8. Addition of drainage easements, to the approval of the Division of Engineering.
9. Kentucky Transportation Cabinet's approval of right turn lane improvements to Harrodsburg Road.

- C. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 8-0 (Brewer, Owens and Roche-Phillips absent) to approve the release and call of bonds as detailed in the memorandum dated June 13, 2013, from Hillard Newman, Division of Engineering.

D. **DISCUSSION ITEMS (continuation)**

1. **DEVELOPMENT PLANS (continuation)**

- e. DP 2013-53: GREENDALE HILLS (UNIT 3) (7/8/13)* - located at 1201 Greendale Road.
(Council District 2) **(Barrett Partners)**

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas, including pond.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Division of Water Quality's approval of drainage study.
11. Clarify that note #13 (lighting) will be away from adjoining residentially zoned properties.
12. Discuss landscape screening next to homes in the R-3 zone.
13. Discuss lack of tree protection areas (southern end of site) and compliance with tree canopy requirements.
14. Discuss internal connections between the lots.
15. Discuss proposed distances between apron/entrances.

Staff Presentation – Directing the Commission's attention to a rendering for Greendale Hills (Unit 3), Ms. Gallt presented the proposed development plan for property located at 1201 Greendale Road. She oriented the Commission to the surrounding area and street system, and said that the subject property is zoned B-1 and is located in the Master Station area, between Lucille Drive and the future access of Greendale Road. She then said that the applicant is showing several different building layouts on the rendering, as to how this property will develop.

Ms. Gallt said that the staff received a revised submission for this plan on June 5th; and since the Subdivision Committee meeting, the applicant had met with other governmental agencies to discuss the items of concern previously identified by that Committee. She directed the Commission's attention to the staff revised recommendation, and briefly explained that conditions #1 through #10 are standard sign-off requirements from the different divisions of the LFUCG, and the remaining conditions are "clean-up" items. She then said that the staff can now recommend approval of this request, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.

* - Denotes date by which Commission must either approve or disapprove request.

2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas, including pond.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Division of Water Quality's approval of drainage study.
11. Clarify that note #13 (lighting) will be away from adjoining residentially zoned properties.
- ~~12. Discuss landscape screening next to homes in the R-3 zone.~~
- ~~13. Discuss lack of tree protection areas (southern end of site) and compliance with tree canopy requirements.~~
- ~~14. Discuss internal connections between the lots.~~
12. ~~15. Discuss Remove proposed distances between apron/entrances proposed for bank on Cielo Vista Road.~~
13. Denote: No access to Greendale Road from Lot 1.

Ms. Gallt explained that, due to safety concerns, the staff is recommending that the applicant either remove the proposed entrance on Cielo Vista Road for Lot 5 or combine that access with Lot 6. She then said that the staff is also recommending that there be no access to Greendale Road from Lot 1.

Representation – Tony Barrett, Barrett Partners, was present representing Louis Wright and Bobby Downing. He said that they are in agreement to adjust Lot 5 and omit one of its accesses on Cielo Vista Road. He indicated that they are in agreement with the staff's revised recommendations and requested approval.

Audience Comment – The Vice Chair asked if anyone in the audience wished to discuss this requests. There was no response.

Action - A motion was made by Ms. Blanton, seconded by Mr. Wilson, to approve DP 2013-53: GREENDALE HILLS (UNIT 3), subject to the revised conditions, as presented by the staff.

Discussion of Motion – Mr. Penn asked for clarification to condition #12. Mr. Sallee said that this condition would either omit one access for the proposed bank or combine the two accesses proposed for Lots 5 and 6 into one shared access on Cielo Vista Road. Mr. Penn confirmed that one access would be omitted or two combined together to create one access. Mr. Sallee replied affirmatively.

The motion carried 8-0 (Brewer, Owens and Roche-Phillips absent).

- f. DP 2013-55: CHENAULT SUBDIVISION, LOT 3A (7/8/13)* - located at 151 West Zandale Court.
(Council District 10) **(Vision Engineering)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Denote record plat designation (C-603) on plan.
10. Consolidate, correct or delete notes #9 - #13 to the approval of the Urban Forester.
11. Expand note #5 to indicate water quality and storm water basin locations.
12. Discuss proposed drive-through location and vehicular stacking.
13. Discuss truck delivery loading locations and large truck movements on site.

Staff Presentation – Directing the Commission's attention to Chenault Subdivision, Lot 3A, Mr. Sallee presented a rendering of the final development plan proposed for property located at 151 West Zandale Court. He provided two aerial photographs of the property, on the overhead projector, to orient them to the surrounding area and to the nearby street system. He said that the subject property is west of the signalized intersection at Nicholasville Road and Zandale Drive and in the general vicinity, there are fast food restaurants, an Ethan Allen (furniture store), a bank branch, and Continental Towers. He then said that, on the site, one photograph illustrates the building that was formerly an athletic club, and parts of which were recently demolished, based upon a site visit made earlier today. He noted that there is an extensive tree

* - Denotes date by which Commission must either approve or disapprove request.

line between the adjacent residential area and the subject site, and said that there is also a service road that extends from Nicholasville Road, wrapping around the furniture store and connecting back to the cul-de-sac. The access easement to the cul-de-sac is part of this development plan request.

Mr. Sallee directed the Commission's attention to the development plan rendering, and briefly explained that the applicant wants to construct a new building that would include retail and restaurant uses, totaling 12,000 sq. ft, as well as an 880 square-foot canopy area over the outdoor seating area in front of the restaurant. He then said that access will be provided off the cul-de-sac very near where the existing access is located. He noted that both the branch bank and the furniture store have access to the service road, and this service road is proposed to be enhanced to provide 19 more parking spaces. He then said that the remainder of the site will provide off-street parking for the retail and restaurant uses. The overage in the minimum parking is through the new parking area that is being provided along the easement.

Mr. Sallee said that the Subdivision Committee had recommended approval of this request, and this recommendation was consistent with the prior Technical Committee recommendations. However, the Subdivision Committee was concerned with truck deliveries, as well as with the larger truck movements needed through this site.

Mr. Sallee directed the Commission's attention to the staff's revised recommendation, and briefly explained that conditions #1 - #8 are standard sign-off requirements from the different divisions of the LFUCG, and the remaining conditions are "clean-up" items. He then said that the staff is recommending approval of this request, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmentally Quality's approval of environmentally sensitive areas.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Denote record plat designation (C-603) on plan.
10. Consolidate, correct or delete notes #9 - #13 to the approval of the Urban Forester.
11. Expand note #5 to indicate water quality and storm water basin locations to be utilized.
12. ~~Discuss~~ Revise proposed drive-through location and/or vehicular stacking area for a minimum of five vehicles, to the approval of the Division of Traffic Engineering.
13. ~~Discuss~~ Resolve truck delivery loading locations and large truck movements on site.

Mr. Sallee pointed out that the applicant did submit a revised version of this development plan, and explained that conditions #12 and #13 deal with the two discussion items that came from the Subdivision Committee meeting last week. He said that condition #12 is related to the proposed drive-through for the restaurant, as well as the 20-foot drive aisle that will run behind and next to the new building. He noted that the staff had spoken with the Division of Traffic Engineering, and there is a concern with vehicular stacking that could be caused by the drive-through window. He then said that the Ordinance requires that the drive-through facility allow an area for stacking for a minimum of five vehicles. He added that, even though there is room for vehicles to maneuver through the site, there is the possibility that the 20-foot drive aisle proposed in addition to the drive-through facility could cause traffic congestion. He said that some ways to address this concern are to cut the corner of the building, to relocate the rear two structures, or to widen the drive aisle even further. He said that the staff believes the plan needs to be revised to address these concerns.

Mr. Sallee said that condition #13 is related to the site not providing sufficient room for the largest delivery trucks. He explained that tractor-trailer trucks are not able to maneuver throughout the site and exit back to the cul-de-sac. He added that these larger trucks can not travel around the building in a counter-clockwise fashion either. He said that the applicant had submitted information for the smaller delivery trucks, and that information showed that the smaller trucks are able to maneuver through the site, and travel around the building. The staff believes the only exception to this would be that the smaller delivery trucks may have a problem at the rear of the building near the proposed drive-through. Mr. Sallee said that the staff believes it is possible that the larger delivery trucks could also use the same path as the larger delivery trucks that are used by the furniture store. He then said that these trucks would not be adjacent to the buildings; but in speaking with the applicant, it was suggested that the larger trucks park in the access easement and use a ramp leading up to this site to make the deliveries.

Mr. Sallee said that the staff is recommending approval of this request, subject to the changes that have been outlined in the revised staff recommendation.

Representation – Matt Carter, Vision Engineering, was present representing the applicant. He indicated that they are in agreement with the staff's revised recommendations and requested approval.

Audience Comment – The Vice Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Ms. Blanton, seconded by Mr. Wilson, and carried 8-0 (Brewer, Owens and Roche-Phillips absent) to approve DP 2013-55: CHENAULT SUBDIVISION, LOT 3A, subject to the revised conditions, as presented by the staff.

VI. COMMISSION ITEM – The Chair will announce that any item a Commission member would like to present will be heard at this time.

A. CT 2013-1 – an application to construct a 180-foot monopole tower, to replace the existing tower, at 361 Duke Road.

Recommendation:

The staff recommends approval. Although the application does not meet the yard requirements on three sides and cannot meet the current landscaping requirements of the Zoning Ordinance, this situation is pre-existing with the monopole tower that is already on site, approved by the Public Service Commission in the late 90s and installed accordingly; and approved by the Planning Commission for a height increase in 2003.

Conditions for Approval:

1. Should there be a need to replace any of the existing trees, that they be replaced in-kind or with a compatible tree species, to be determined as appropriate by the Urban Forester.
2. That a temporary wood fence be installed to screen the equipment area until the ivy is established and at such a height (i.e., 5 to 6 feet tall) as to effectively screen the area (either interior or exterior to the chain-link fence, whichever is more practical and easy to accomplish, based on available space), once the tower is constructed and the equipment cabinets installed.

Staff Presentation - Ms. Rackers directed the Commission's attention to CT 2013-1, an application to construct a cell tower for property located at 361 Duke Road. She distributed two letters of opposition to the Commission for their review. She noted that there was an error on the previous staff report and said that the height of the tower was noted at a total of 180 feet, but the actual height is 185 feet (180 feet, with a 5-foot lightning arrestor). She added that the required legal ad notice did reflect the correct height for this proposed cellular antenna tower.

Ms. Rackers stated that Crown Castle/Global Signal Acquisitions IV, LLC has requested to replace the existing, 123 foot tall, cellular antenna (monopole) tower with a 185-foot monopole tower. She briefly explained that, in 1998, the Public Service Commission had approved a 100-foot tower that was constructed in 1999; and then in 2003, the Planning Commission had approved a height increase to 123 feet. She said that, due to the existing services being inadequate, the current application has proposed to increase the height of the tower to 180 feet, to allow more service and provide better coverage.

Ms. Rackers directed the Commission's attention to the overall map of the area, which was displayed on the overhead projector, to orient them to the surrounding property and to the nearby street system. She noted that this property is zoned B-1, and is near the intersection of Cooper Drive and Romany Road, which is in the heart of the Chevy Chase Neighborhood. She then said that the some of the existing uses in this area include the Kroger store and United States Post Office, both of which adjoin the property.

Ms. Rackers then directed the Commission's attention to the site plan on the overhead projector, and said that the existing cellular tower is approximately 5 feet from the northern property line, and this application is proposing to place the new tower approximately 25 feet further into the property. She then said that Crown Castle, who is the property owners, currently leases the front portion of the building for office space, while the remainder of the building is used to store the equipment for the existing tower and its current carriers. She noted that there is an outside equipment area that was expanded in 2003 from 178 sq. ft to 598 sq. ft, and with this application the equipment area will be expanded again to 2,138 sq. ft. This will take up the entire rear portion of the property, with the exception of two parking spaces.

Ms. Rackers directed the Commission's attention to the tower elevation schematic, and said that the new tower would be of the same materials as the existing tower (steel monopole); but the difference between the existing tower and the new tower is the diameter, the height and the type of antenna being used. She briefly explained that the current tower has flush-mount antennae. She said that, when the existing tower was constructed, the flush mount antennae were required for the lower height for aesthetic purposes because this tower is located in the middle of a residential area. She said that Crown Castle is now proposing to use the standard (bird nest) antennae to allow adequate transmission and reception for service. Ms. Rackers said that, even though this tower is located in a residential zone, the closest residential area is 100 feet from the tower, on the west side of Duke Road. She noted that the area to the west of Duke Road is zoned R-3, and the east side of Duke Road is zoned B-1.

Ms. Rackers said that, as part of this application, Crown Castle has requested two variances: one variance is for the landscaping requirements and the other variance is for the height-to-yard ratio. She directed the Commission's attention to the aerial photograph, and said that with regard to the landscape variance, there is not adequate space to accommodate landscaping around the equipment area, as required by the Zoning Ordinance. She said that there is an 8-foot fence required

around the equipment area, and then a 5-foot easement that would contain one tree per 40 linear feet with a 6-foot hedge. She said that there is existing landscaping on the property; but due to the site constraints, there is not enough room for additional landscaping. She then said that Crown Castle is requesting to use the existing landscaping between the Kroger parking lot and their building, as well as provide a chain link fence with ivy on three sides of the property. She added that this proposal would not totally comply with what is required, but it would provide more than what was there in the beginning and what currently exists on site. She said that Crown Castle is also proposing to landscape the area between the sidewalk and the parking area, all of which would help make the property less nonconforming. Crown Castle is requesting that the Commission waive that requirement of Article 25 of the Zoning Ordinance.

Ms. Rackers said that, with regard to the height-to-yard ratio, this property is located within a B-1 zone, and Article 25 requires the height-to-yard ratio to be 3:1. This requirement has never been met, even when the tower was at 100 feet. She then said that the tower is nonconforming, as far as its location is concerned, and when it was originally approved, prior to the year 2000, there were no requirements established in the Ordinance for the height-to-yard ratio. She said that when the Commission approved the height increase in 2003, the height-to-yard ratio and the landscaping requirements were waived at that time. Ms. Rackers said that the staff believes that both requested variances are justified, based on existing conditions. She added that there is no other area on the property to place a tower that will meet the Zoning Ordinance requirements; nor is there available space in the general area to accommodate an additional tower. She said that with the services in this area being poor and the fact that there is already an existing tower on the property, it is more logical and more economically feasible to increase the height of this tower. She added that this would allow co-location and would reduce the need for additional towers. She did note that there are two antennae nearby - one is located at the University of Kentucky Commonwealth Stadium and the other in Montavesta Park. Neither is able to provide the needed level of service.

Ms. Rackers said that, because the service is poor in this area, the staff does agree with Crown Castle increasing the height of the tower. This would enhance the 911 and other emergency service access, and it would be consistent with the 2007 Comprehensive plan Goals and Objectives, which is to increase public and private services in areas that are inadequate. Despite its size, it will help to protect the character of the neighborhood by not increasing the number of towers needed.

Ms. Rackers said that this request does comply with the adopted 2007 Comprehensive Plan Goals and Objectives; and in considering the relationship of the application to Article 25: Telecommunication Towers, the staff finds the following:

1. The site is not located in a floodplain.
2. The site is not environmentally sensitive or a geologic hazard area.
3. The site is not within 1,200 feet of an historic district or landmark; however, since the 2003 application to increase the height of the existing tower, ND-1 zoning has been implemented for nearly the entire surrounding area. The presence of the ND-1 overlay will not affect the presence of the tower or the proposed changes to the property; it is merely noted as a change in the area since the 2003 application.
4. The adjoining streets are not State-designated Scenic Byways.
5. The proposed 175-foot tower does not meet the required height-to-yard ratio of 3:1 along three of the four property lines. However, it did not meet that requirement along the common property line with the Kroger property at its 100-foot height, as approved by the Public Service Commission; or the 123-foot height, as later approved by the Planning Commission. In order to meet the 3:1 height-to-yard ratio, the distance from the northern property line must be at least 58.5 feet, once the new tower is constructed. It should have been at least 41 feet from that property line at its lower height. The site plan that has been submitted indicates that the tower is approximately 25 feet from the northern property line and 27 feet from the southern property line, well short of the requirement. It is approximately 17 feet short of the requirement along the rear; but it does meet the height-to-yard ratio for the front property line, which is the property line nearest the residential zone along Duke Road.
6. The accessory structures meet the required 25-foot distance from any adjoining residential zone, the closest of which is located more than 100 feet from the tower site.
7. The location does not appear to interfere with traffic circulation, access, storm drainage, or other requirements of the Zoning Ordinance.
8. Adequate space for the required landscaping does not exist between the perimeter fence and the adjoining Kroger property. However, the plant material that is on site will be supplemented as much as possible in the space available to make that nonconforming situation less nonconforming. In addition, a chain-link fence with ivy will be placed around the three exposed sides of the equipment area, which will provide screening from surrounding properties (to include plant material).
9. This site is not subject to a development plan; therefore, no amendment is needed.
10. The property is located in a Neighborhood Business (B-1) zone, where a monopole tower is permitted. There is no minimum lot size that increasing the size of the lease area would violate.
11. The proposal to construct a new tower and to increase its height is for the purpose of co-location, which is encouraged by the Zoning Ordinance.

Ms. Rackers explained that, although the application does not meet the minimum yard requirements on three sides and it cannot meet the current landscaping requirements of the Zoning Ordinance, this situation is pre-existing. This request does generally comply with both the Comprehensive Plan and Article 25 of the Zoning Ordinance. She said that the tower has been at this location since the late 90s; and when the original construction took place, the Zoning Ordinance requirements did not exist. The staff believes it is more logical to have a taller tower there than several smaller towers throughout this area; therefore, the staff is recommending approval of this request, subject to the following conditions:

1. Should there be a need to replace any of the existing trees, that they be replaced in-kind or with a compatible tree species, to be determined as appropriate by the Urban Forester.
2. That a temporary wood fence be installed to screen the equipment area until the ivy is established and at such a height (i.e., 5 to 6 feet tall) as to effectively screen the area (either interior or exterior to the chain-link fence, whichever is more practical and easy to accomplish, based on available space), once the tower is constructed and the equipment cabinets installed.

Ms. Rackers restated that the staff is recommending approval, along with the two requested variances, subject to the conditions as listed on the agenda.

Planning Commission Questions – Mr. Wilson asked if the request is still within the FAA requirements with regard to lights. Ms. Rackers said that the tower will not be tall enough to require any type of lights.

Representation – Mr. Chris King, attorney for Crown Castle was present. Luke Morgan, attorney; and Amy Harper, were both present representing Verizon; Curtis Barman, who is the project manager for this site was present, as was Cynthia Shaffer, real estate specialist for the industry. He noted that Daniel Hatch, assistant performance engineer for Verizon of Lexington, was also present should the Commission have any technical questions regarding radio frequency and so forth.

Mr. King briefly explained the history of this cellular tower, and said that the original tower was under the ownership of Bell South, and it was constructed in 1999 pursuant to the approval by the Public Service Commission in 1998. Subsequent to that, Crown Castle had purchased the tower. The Planning Commission approved the height increase in 2003 to accommodate an additional wireless carrier. He noted that, in June 2012, his client had purchased this entire parcel.

Mr. King said that the existing tower is currently home to AT&T, T-Mobile, Sprint and Cricket Communications, and these carriers have maxed out the tower. Verizon can not be attached. He then said that the tower is not structurally sufficient to be extended higher or to have additional antennae added. He noted that Verizon is looking in this area due to the need for increased data usage from customers who are using i-Phones or Blackberries. He said that there had been some speculation for a number of years that the use of cellular phones would change to less talking and more internet usage. This change happened in September 2011. He said that data usage continues to increase from people checking their email, shopping, using maps and so forth; and the technology to address this increase, can be found in the new 4G phones. The type of antennae and radio frequency needed to transmit this signal are different - not necessarily incompatible, but different, and requires a different telecommunication antenna. He said that, in this area, Verizon currently has 3G capability, and with the rolling out of the 4G phones, customers are switching over to the newer phone, resulting in a higher demand for the 4G services. Verizon has started seeing "trouble tickets," which are customers calling in reporting that they have no service. He said that there are other antennae in the general vicinity, and Verizon had discovered that there are certain areas in the Romany Road area that have good to moderate coverage; but in the Lakeview area there is not sufficient coverage due to the terrain. By updating this tower, it will provide better coverage for the overall area. Mr. King said that, even though there is an antennae on Commonwealth Stadium, Verizon had discovered that during the football season, people were having trouble connecting to the internet, which has to do with capacity. He explained that capacity relates to the phone, as well as the transmitter; and even if the phone shows that it can get a connection, if there is not enough room on the radio station or transmitter, the phone will not make the connection. He said that, during the 2012 football season, the number of call attempts outweighed the actual number of calls that connected. He said that the new Romany Road tower would help off-load some of this capacity and increase the ability to connect during game days, as well as during the off-season. He noted that, as more and more hospitals are using wireless connections, this tower would also help off-load that capacity.

Mr. King said that, to figure out the best location for a tower, Verizon had issued a search ring to determine what location would be best suited to provide more effective coverage. They discovered that Duke Road is almost at the center of the ring; however, the problem with this ring is that there are no structures that are tall enough to achieve their goal. This is why they are requesting to replace the existing tower with a taller tower, which would allow additional coverage instead of breaking it down into multiple towers. He said that this proposal will allow Verizon to meet their objectives for the areas near Lakeview, Romany Road and the UK campus. He then said that, by upgrading this tower, it would allow two more antennae to be added for future providers; and the existing providers would be able to utilize this tower to provide a higher data connection, without building additional towers.

Mr. King said that the Comprehensive Plan does recognize that telecommunications plays an important part in economic development, and this proposal is in agreement with the Comprehensive Plan. He then said that it encourages co-location, which is what they are trying to accomplish; and it is important to remember that, even though this is a new tower, it is not an additional tower. They are proposing to replace the existing tower with a new tower in the same place. He said that they believe this request does meet the letter and the spirit of the Comprehensive Plan. He then said that what they had found is that there is a small section on Romany Road that is zoned B-1 that is surrounded by residential zoning. He noted that the Comprehensive Plan does encourage towers to be placed in non-residential areas, and this is what they are trying to accomplish. Otherwise, multiple towers may be needed in the residential areas. Mr. King said that they had consulted with the Chevy Chase Neighborhood Association concerning the placement of the tower, and his client had made changes to this proposal per the neighborhood association's request. He explained that the tower cables will be placed inside the monopole to make the tower less intrusive, and the placement of the carriers will be evened out to provide a neater appearance for the area. He added that since the tower is located behind two commercial buildings, the base of the tower will be shielded from the public view by an 8-foot fence as well as landscaping (such as ivy) around the tower base. Mr. King said that the existing

* - Denotes date by which Commission must either approve or disapprove request.

tower sits up on a platform and the equipment is visible to the public eye. Their proposal consists of taking down the existing equipment that services the tower to be taken down so it will no longer be projecting above the fence line. As for the equipment, some can be placed inside the building to help further reduce the visual impact of the tower. He noted that they would be improving the parking area by resurfacing and restriping it, replacing the asphalt bumpers with concrete, as well as providing landscaping. He said that they are requesting the waivers for the landscaping due to the site constraints, and they believe that what they are proposing is sufficient.

Mr. King said that they are in agreement with the staff's recommendation, and he wanted to thank the Chevy Chase Neighborhood Association for their input, as well as everyone who was present at today's meeting. He also thanked the Planning Commission for taking their time in hearing this case, and requested approval of this request.

Planning Commission Questions – Mr. Berkley said that Verizon was mentioned throughout the meeting and, to his understanding, they are not currently on that tower. He asked if this request is about adding carriers or improving the service for the existing carriers. He noted that this proposal would allow a total of seven carriers to be added, and asked if the height of tower is to allow more carriers or if it is due to some other reason. Mr. King responded that Verizon is not currently on the tower, and they need this location for their 4G coverage. He said that, with regards to the height of the tower, it was determined that it needed to be 175 feet above ground level to provide better coverage. Otherwise, additional towers would be needed to meet their objective for the surrounding areas. He added that, to provide better coverage with one tower, the height of the tower needs to be 175 feet, noting that this would also allow two more carriers to be added, if needed, in the future.

Mr. Berkley asked if the height is necessary to accommodate seven carriers or if the tower could be lowered and still be sufficient to provide a better service area. Mr. King said that for Verizon to be able to provide better service, the tower needs to be 175 feet. He then said that Verizon could lower the elevation of the antenna, but to provide the same level of service would require additional towers throughout this area.

Mr. Berkley said that he lives in this area and he understands that for his provider the service is poor. He asked if this proposal would also increase the coverage for the other providers. Mr. King said that he does not know if there are official applications filed, but they believe the other carriers would take the opportunity to move their antenna higher. He added that this application only includes Verizon, but the other carriers may be interested.

Curtis Barman said that T-Mobile does have a pending application, and he believes that the other carriers would also be interested in moving their antenna higher on the tower. This would give them a larger footprint for their coverage area. He said that he has seen several applications cancel due to the limitations of a tower that will not allow them to accomplish what they need to be done. He said that this tower has been modified several times, and has become physically ugly. He then said that they can not make a 180-foot tower less intrusive, but they can make the tower look more appealing. He added that they are expecting the current carriers to move higher on the tower to achieve a better RF (radio frequency) objective.

Action - A motion was made by Mr. Wilson, seconded by Mr. Penn, to approve CT 2013-1, for the reasons presented by the staff.

Discussion of Motion – Mr. Cravens asked if the motion on the floor included the waiver request. Mr. King, Director of Division of Planning, suggested that the Commission refer to the staff report. Mr. Cravens then asked if the motion on the floor would include the waivers in the staff report, to which Mr. Wilson replied affirmatively.

The motion carried 8-0 (Brewer, Owens and Roche-Phillips absent).

- B. APPOINTMENT OF NOMINATING COMMITTEE FOR COMMISSION OFFICERS** – At the first regular and official meeting in June, the Commission will elect three members to a nominating committee. This committee will present a slate of officers for consideration by the Planning Commission. The slate will be forwarded to the full membership of the Commission and will be presented at the Commission work session in June.

The Vice-Chair announced that the Chair has appointed Frank Penn, Will Berkley and Karen Mundy to serve on the nominating committee. Mr. Wilson said that the record should show that these members are volunteering to serve on the nominating committee, as opposed to being appointed by the Chair, per parliamentary procedure. The Vice-Chair noted that the agenda reads "Appointment of the Nominating Committee," and asked if the Commission members are volunteering their time, to which the members replied affirmatively. Mr. Wilson recommended that the Commission take action on this request.

Action - A motion was made by Ms. Blanton, seconded by Mr. Wilson, and carried 8-0 (Brewer, Owens and Roche-Phillips absent) to appoint the nominating committee, as presented.

- C. UPCOMING WORK SESSION** – Mr. King reminded the Commission members of the upcoming work session scheduled for June 20, 2013, and noted that the Nominating Committee would be making their recommendations at that time, per the bylaws.

VII. STAFF ITEMS – The Chair will announce that any item a Staff member would like to present will be heard at this time.

VIII. AUDIENCE ITEMS – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

IX. NEXT MEETING DATES

Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	June 20, 2013
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	June 26, 2013
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	June 27, 2013
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	July 3, 2013
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	July 3, 2013
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	July 11, 2013

IX. ADJOURNMENT - There being no further business, a motion was made to adjourn the meeting at 5:39 PM.

Mike Owens, Chair

Lynn Roche-Phillips, Secretary

* - Denotes date by which Commission must either approve or disapprove request.